



**CITY OF EDGEWOOD
COUNCIL STUDY SESSION AGENDA**

Tuesday, July 20, 2021 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Roll Call, Pledge of Allegiance

2. COUNCIL BUSINESS

A. Discussion – Development Review

B. Discussion – Equity, Diversity and Inclusion (Trainings, Planning, etc.)

C. Discussion – WA State Long-term Care Coverage and Payroll Tax

D. Discussion – Resolution – South Sound Housing Affordability Partners (SSHA3P)

E. Discussion – Resolutions – On-Call Consultant Services Contracts

F. Discussion – Ordinance – Traffic Impact Fees Code Amendment

G. Discussion – Ordinance – Traffic Concurrency Review Threshold

H. Discussion – 24th & Meridian Sidewalks – Change Order #6

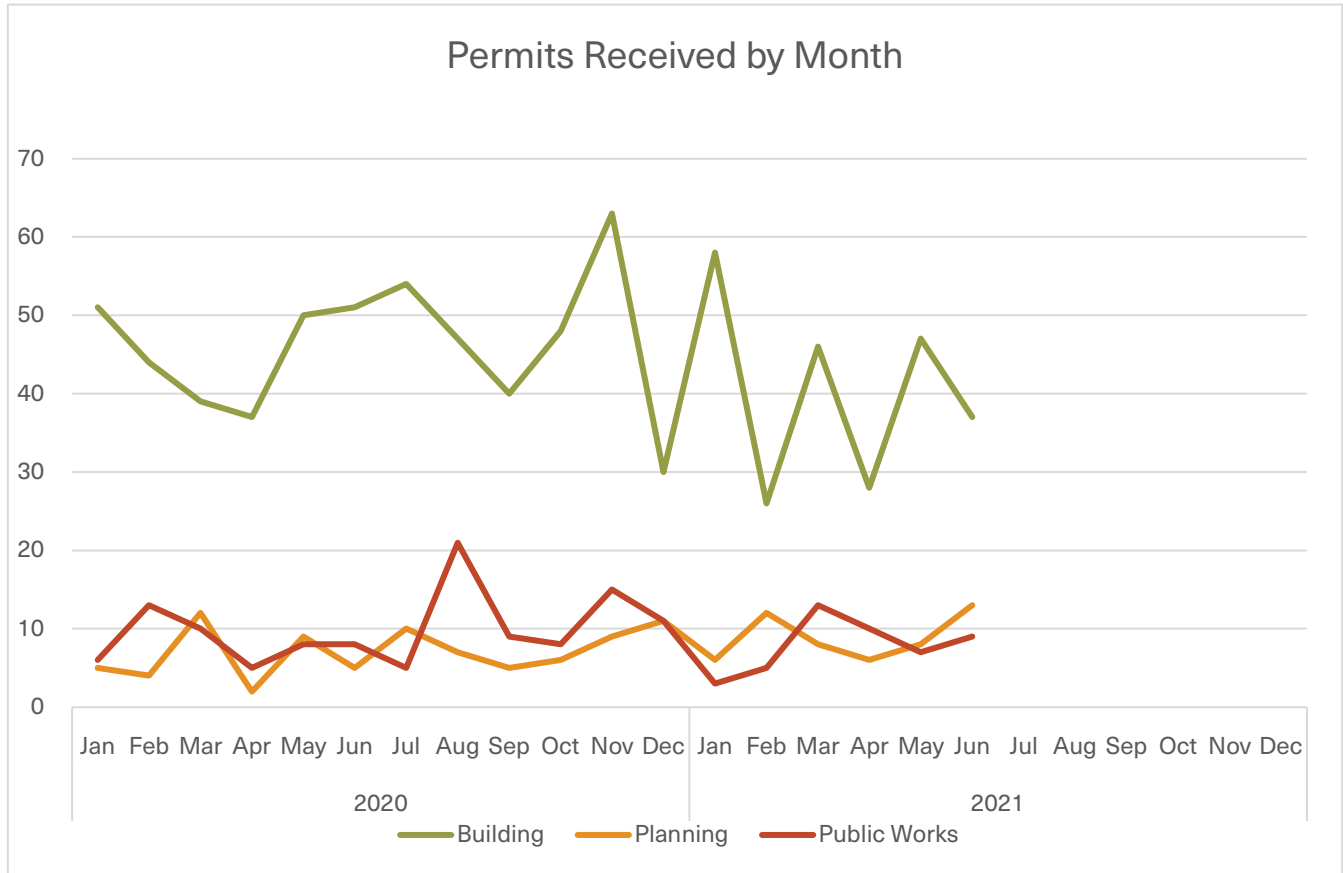
3. OTHER COUNCIL ITEMS

4. ADJOURN

Study Sessions are meetings for Council to review upcoming and pertinent business of the City, no action is taken by the City Council. Study Sessions are open to the public, but public input is reserved for the regular Council meetings

Jun 2021

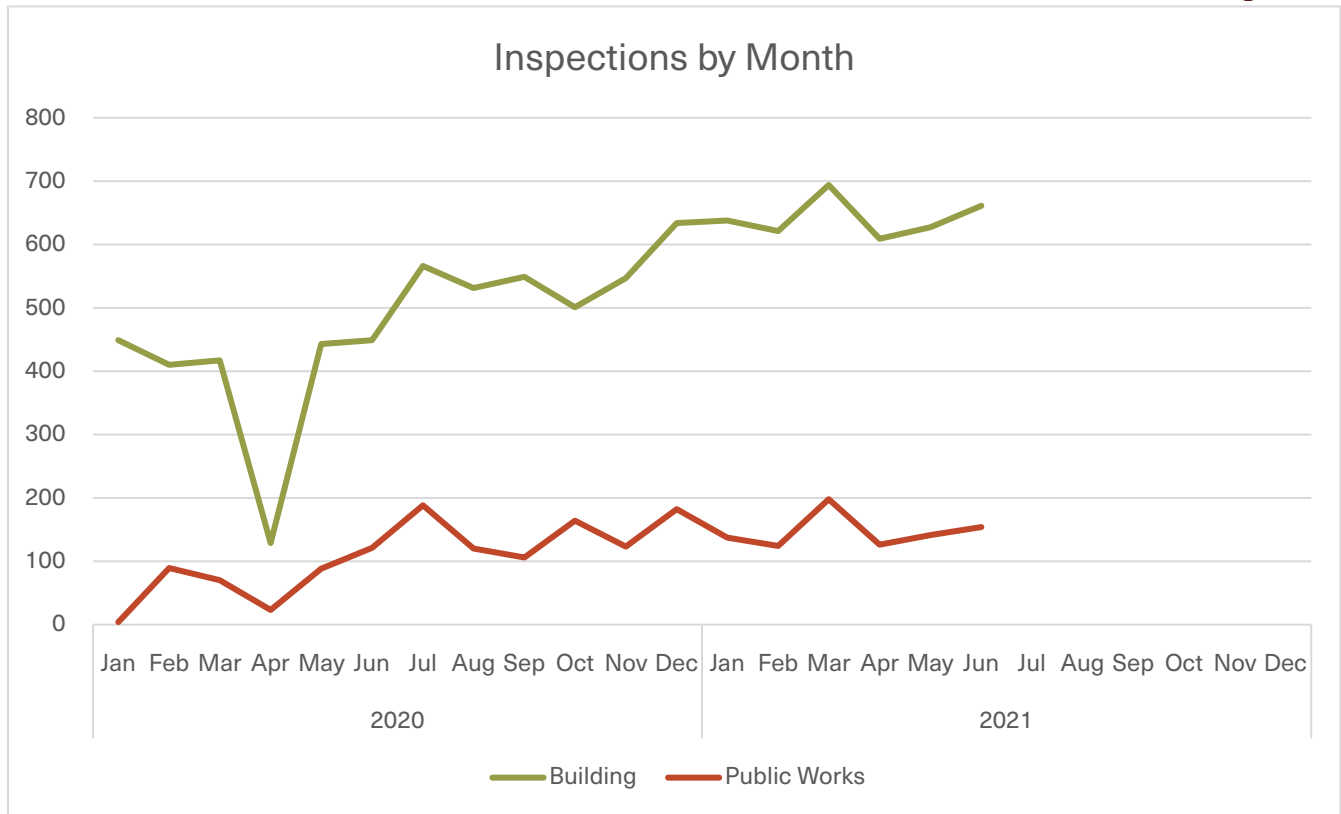
Monthly Development Report



Permits	Building		Planning		Public Works	
	Received	Issued	Received	Issued	Received	Issued
Jun 2021	37	27	8	2	9	11
Jun 2020	37	19	2	4	5	3
Average 2021	40	40	8	3	8	8
Average 2020	45	30	6	3	8	7
YTD 2021	242	241	53	17	47	46
YTD 2020	272	180	37	18	50	40
	Building		Planning		Public Works	
	Month	Received	Month	Received	Month	Received
Highest Month 2021	Jan	58	Jun	13	Mar	13
Highest Month 2020	Nov	63	Mar	12	Aug	21

Jun 2021

Monthly Development Report



<i>Inspections</i>	Building		Public Works	
Jun 2021	661		154	
Jun 2020	449		121	
Average 2021	642		147	
Average 2020	469		107	
YTD 2021	3850		880	
YTD 2020	2297		395	
	Building		Public Works	
	Month	Insp.	Month	Insp.
Highest Month 2021	Mar	694	Mar	198
Highest Month 2020	Dec	634	Jul	188



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Equity, Diversity and Inclusion (Trainings, Planning, etc.)	Agenda Item #: 2.B
	For Agenda of: 7/20/2021
	Prepared by: Daryl Eiding
Attachments (list):	
Approval of Materials: Daryl Eiding Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eiding 7/15/2021	Expenditure Required: Amount Budgeted: Timeline: Topic to be added to all future Study Sessions (see item history below)

Summary Statement:

City Council is committed to creating a stronger and more inclusive community and believe that equity, diversity and inclusion is essential for our present and our future.

Item History:

The Subcommittee requested Council watch and be prepared to discuss the YouTube video *Color of Fear - Just Be American*. <https://youtu.be/AzLTyp0ZBx4>

Council has asked that this topic be a discussion item at all future study sessions for the foreseeable future.

Council has discussed Equity, Diversity and Inclusion trainings and planning at the following meetings:

09/01/2020 Study Session
 09/15/2020 Study Session
 09/29/2020 Study Session
 10/06/2020 Study Session
 10/20/2020 Study Session
 11/03/2020 Study Session
 11/24/2020 Study Session
 12/05/2020 Part I - National League of Cities - REAL Action: Advancing Racial Equity in Edgewood
 12/12/2020 Part II - National League of Cities - REAL Action: Advancing Racial Equity in Edgewood
 01/05/2021 Study Session
 01/19/2021 Study Session
 02/08/2021 Council Subcommittee Meeting
 02/16/2021 Study Session
 03/08/2021 Council Subcommittee Meeting
 03/16/2021 Study Session
 03/30/2021 Study Session
 04/06/2021 Study Session
 04/12/2021 Council Subcommittee Meeting

04/20/2021 Study Session
05/04/2021 Study Session
05/10/2021 Council Subcommittee Meeting
05/11/2021 Regular Council Meeting to discuss alternates to Subcommittee
05/18/2021 Study Session
06/01/2021 Study Session
06/08/2021 Council Subcommittee Meeting
06/15/2021 Study Session
06/29/2021 Study Session
07/06/2021 Study Session
0713/2021 Council Subcommittee Meeting

Recommended Action:

N/A

Fiscal Note/Consideration:

N/A



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – WA State Long-term Care Coverage and Payroll Tax	Agenda Item #: 2.C
	For Agenda of: 7/20/2021
	Prepared by: Rachel Pitzel, Stephanie Goff
Attachments (list): 1. Resolution - Long Term Care Coverage 2. 061421trustltcwebinarppt	
Approval of Materials: Rachel Pitzel, Stephanie Goff Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eidinger 7/15/2021	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 07/20/2021 SS

Summary Statement:

From AWC website:

Beginning on January 1, 2022, employers must start collecting premiums for the new WA Cares Fund program. Premiums will be paid entirely by employees through a .58% payroll tax remitted to the Employment Security Department (ESD). ESD is using the Paid Family and Medical Leave Program as a model to establish the program's collection and reporting process.

To become eligible, Washington residents must have worked and contributed to the fund for:

- At least ten years at any point, without a break of five or more years within those ten years, **or**
- Three of the last six years at the time of applying for the benefit, **and**
- At least 500 hours per year during those years.

Benefits will begin for eligible employees on January 1, 2025. To be eligible to receive benefits, an employee must meet the above eligibility requirements, and need assistance with at least three activities of daily living. The maximum lifetime benefit is \$36,500 per person, with future increases tied to the consumer price index.

Employer information – employee exemption

Employees may choose to apply for an exemption, meaning they are opting out of the WA Cares Fund benefit. To apply for an exemption, an employee must be at least 18, and purchase a private long-term care insurance plan **before November 1, 2021**. (Long-term care insurance is defined in [RCW 48.83.020](#).) The ESD is currently developing the process for employees to apply for exemptions. Employees can apply for an exemption between October 1, 2021 and December 31, 2022. If an exemption is granted, the employee is permanently ineligible for the WA Cares Fund benefit. It is the employee's responsibility to apply for an exemption and to notify their employer. An employer can't apply for exemptions on behalf of employees.

Many employers have reached out to the AWC Trust, asking if alternative long-term care coverage is available. Employers have indicated they would like to see a benefit offered that is portable, offers a higher level of long-term care coverage, and where the premium is not based on employee wages.

Based on this interest, the Trust has explored offering coverage that would qualify as opt-out coverage and has identified a plan that can provide a richer plan design with guarantee issue – meaning there is no medical questionnaire for the employee. The benefit available is a universal life insurance plan, with a long-term care rider. This coverage pays a benefit at time of death, or pays long-term

care benefits when the individual has met a 90 day elimination period with an inability to perform two activities of daily living.

Trustmark – Universal life with long-term care rider

Benefits include a death benefit (ranging from \$25,000-\$150,000 with no medical underwriting, and up to \$300,000 with simplified underwriting) as well as a long-term care benefit, equal to a monthly benefit of 4% of the death benefit. The plan is rated for employees ages 18-64 with no medical underwriting, and ages 65-70 with simplified medical underwriting. (Employees 70 or older do not qualify.) If the employee enrolls, the spouse/domestic partner is also eligible for this benefit and can apply with simplified medical underwriting.

Premiums are based on the individual's age at time of enrollment and level of benefits selected. Rates do not change as the employee ages.

Item History:

Recommended Action:

Hold a discussion and provide staff direction to Discussion – WA State Long-term Care Coverage and Payroll Tax

Fiscal Note/Consideration:

RESOLUTION NO. 21-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE CITY TO OFFER THE AWC TRUST SPONSORED LONG-TERM CARE COVERAGE TO AWC TRUST INSURED EMPLOYEES

WHEREAS, in 2019, the Washington State Legislature passed HB 1087, establishing the WA Cares Fund to provide long-term care benefits to Washington workers that otherwise would not have coverage; and

WHEREAS, participation in the program is required for all employees in Washington State, except employees with private long term care insurance in place before November 1, 2021 can opt-out of the state tax and benefit; and

WHEREAS, in response to employers looking to provide an alternative long-term care coverage option for their employees, the AWC Trust has secured access to group coverage through Trustmark; and

WHEREAS, the AWC Trust sponsored coverage under Trustmark provides more favorable coverage and terms than the WA Cares Fund program; and

WHEREAS, the City Council has determined that offering the City's employees long-term care coverage through the AWC Trust and Trustmark is in the best interests of the City and its employees; and

WHEREAS, on July 6, 2021, the Edgewood City Council considered this matter in a study session; and

WHEREAS, on July 27, 2021, the Edgewood City Council took final action on this Resolution during its regular meeting; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Long-Term Care Coverage Authorized. The City Council authorizes the Mayor to take the actions necessary to offer long-term care coverage to City employees through the AWC Trust sponsored group plan through Trustmark.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 27TH DAY OF JULY, 2021

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

Trustmark LTCI Implementation Summary

Association of Washington Cities Employee Benefit Trust



**J.MANNING
& ASSOCIATES**



PRESENTED BY

Ruth Larkin - J. Manning & Associates
Beverly Lakey - AWC Employee Benefit Trust

About Us : What Sets Us Apart

Our industry-leading customized solutions are matched only by our personal commitment to each client.

- Singular focus on LTC insurance planning solutions
- National roster of strategic partners from the Top 25 Employee Benefits firms in the marketplace
- Turnkey sales, education, and enrollment solutions
- State-of-the-art technology in email communications platform and online enrollment engine
- Leadership background from national brokerage firms and insurance companies
- J. Manning & Associates & LTCI Partners have a long-term joint venture agreement

350+

**EMPLOYER-SPONSORED
LTC PROGRAMS IMPLEMENTED**

\$135M

**IN-FORCE PREMIUM WITH
MULTIPLE INSURANCE CARRIERS**

**J.MANNING
& ASSOCIATES**

POWERED BY  **LTCI**
PARTNERS, LLC

25 YEARS

**EXPERIENCE IN THE LTC
INSURANCE MARKETPLACE**



Agenda

1. WA Cares Fund Overview
2. AWC Trust Program Overview - Trustmark LTC+Life Plan
3. Plan Comparison & Sample Rates
4. Enrollment Communication Overview
5. Enrollment Timeline
6. Employer Next Steps
7. Questions

WA Trust Act Overview

LTSS Trust Act / WA Cares Fund Timeline

2019

The state enacted a long-term care (LTC) insurance benefit for all eligible Washingtonians, funded by worker contributions into a Trust Fund, now known as the WA Cares Fund. Under this law, individuals will have access to \$100/day for up to 365 days or a maximum of \$36,500 that will be adjusted annually for inflation.

2021 - 2022

Non-exempted workers will pay .58% of wages earned as a mandatory contribution to the Fund starting 1/1/22. However, owners of private long-term care insurance may opt-out of the Trust Act permanently by applying for an exemption. On 4/21/21, Governor Inslee signed into law SHB 1323, formalizing the “purchase before” deadline of **11/1/21** for Long-Term Care Insurance intended to qualify for exemption from the WA Cares Fund.

2025

Workers who have vested in the Fund and need long-term care will be able to access their earned LTSS benefits.

To be vested, Employees must pay into the state plan for a minimum of 3 years, and 3 of the past 6 years to be eligible for benefit.

To be fully vested in the state plan, participants must pay into the plan for 10 years (without a break of 5 consecutive years).

To opt out of the WA Cares Fund, you must:

- **Own a long-term care insurance plan or long-term care benefit rider before 11/1/21. (RCW) 48.83.020.**
- Apply and be approved for an exemption. The Employment Security Department (ESD) is developing the process to apply for exemptions. Workers can apply between 10/1/21 and 12/31/22. Refer to <http://www.wacaresfund.wa.gov> for updates
- And be at least 18 years of age.

The decision to own long-term care coverage and opt-out from the WA Cares Fund is an individual and personal decision. You also have the choice to participate in the Fund and own private LTC coverage. Once an employee is approved for exemption, they are permanently ineligible for benefits from the WA Cares Fund.

*Currently non-WA residents who work in WA are subject to the WA Cares Fund payroll contribution even though they are not currently defined as eligible for any benefits under the plan.

Program Overview

AWC Trust LTCI benefit offering through



- **Plan Advantages**

- **Guarantee issue (no health questions)** for employees (ages 18-64) up to \$150,000 of life insurance (\$6,000/month and \$150,000 total for LTC). Employee must be actively at work for at least an average of 20 hrs/week (FT). Spouses can apply with Simplified Underwriting up to \$300,000 of life insurance. Employee's age 65-70 may enroll under the Traditional UL plan with Simplified Underwriting. Employer policy also includes Restoration of Benefits – which restores the death benefit in effect if the LTC need depletes it.

- **Situs State:** WA

- **Dual Enrollment – Guarantee issue coverage**

- Off-Cycle Enrollment – August 2021 (10/1 effective date)
- “Second Chance” On-Cycle Enrollment - Fall 2021 (1/1/22 effective date)

- **Program Minimum**

- Trustmark requires 5,000+ eligible employees are offered coverage and 10 employee applications needed to issue the master policy

- **New Hire Eligibility**

- New Hires will have an annual opportunity to enroll with guaranteed acceptance

Ways to Use Your Policy



Scenario 1: You don't use your LTC benefits

Your full death benefit would be paid to a beneficiary.

Total death
benefit



\$100,000



\$0

LTC benefits
used

Scenario 2: Access both benefits

You can access 4% of your death benefit per month to help pay for LTC services. The policy will pay up to 1x the death benefit for LTC and will still pay the full death benefit regardless of how much LTC benefits you use.

Total death
benefit



\$100,000

+



\$100,000

LTC benefits
used

Group Life w/ LTC Plan vs. WA State LTC Plan

	Trustmark Life w/ LTC Plan	WA State LTC Plan
LTC Benefit	4% of death benefit per month: \$1K, \$2K, \$3K, \$4K, \$5K, \$6K	\$100/day
Lifetime LTC Max	1X death benefit: \$25K, \$50K, \$75K, \$100K, \$125K, \$150K	\$36.5K
Death Benefit	Enrollment Options: \$25K, \$50K, \$75K, \$100K, \$125K, \$150K	None
Cost Stability	Stable rate, locked in at initial enrollment age	Tax rate and employee income likely to increase over time
Portability	EE can move to any state in US and keep/use plan	Can only be used in WA. If EE moves out of WA for 5+ years participant forfeits benefit.
Qualifying	Eligible immediately (90 day elimination period applies)	Employees must pay into the state plan for a minimum of 3 years, and 3 of the past 6 years to be eligible for benefit. To be fully vested in the state plan, participants must pay into the plan for 10 years (without a break of 5 consecutive years). Therefore, those retiring in less than 10 years from 1/1/22 will have limited or no access to this benefit in retirement.
	Loss of 2 of 6 activities of daily living or Cognitive Impairment to qualify	Loss of 3 of 10 activities of daily living

Group Life w/ LTC Plan Rates vs. WA State LTC Tax

AWC Avg. Age: 46

	W2 Income	WA LTC Monthly Tax	Trustmark \$25K Death Benefit and \$1K/month LTC benefit				
			Age 20	Age 30	Age 40	Age 50	Age 60
AWC Avg. Income: \$50K	\$30,000	\$15	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$40,000	\$19	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$50,000	\$24	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$60,000	\$29	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$70,000	\$34	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$80,000	\$39	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$120,000	\$58	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$140,000	\$68	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$175,000	\$85	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$200,000	\$97	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10
	\$250,000	\$121	\$13.88	\$17.22	\$25.40	\$40.53	\$72.10

- Trustmark rates are for \$25K death benefit (reduces to \$8.333K at age 70), \$1K/month LTC benefit to \$25K lifetime max



Communication Strategy : How We “Nudge”

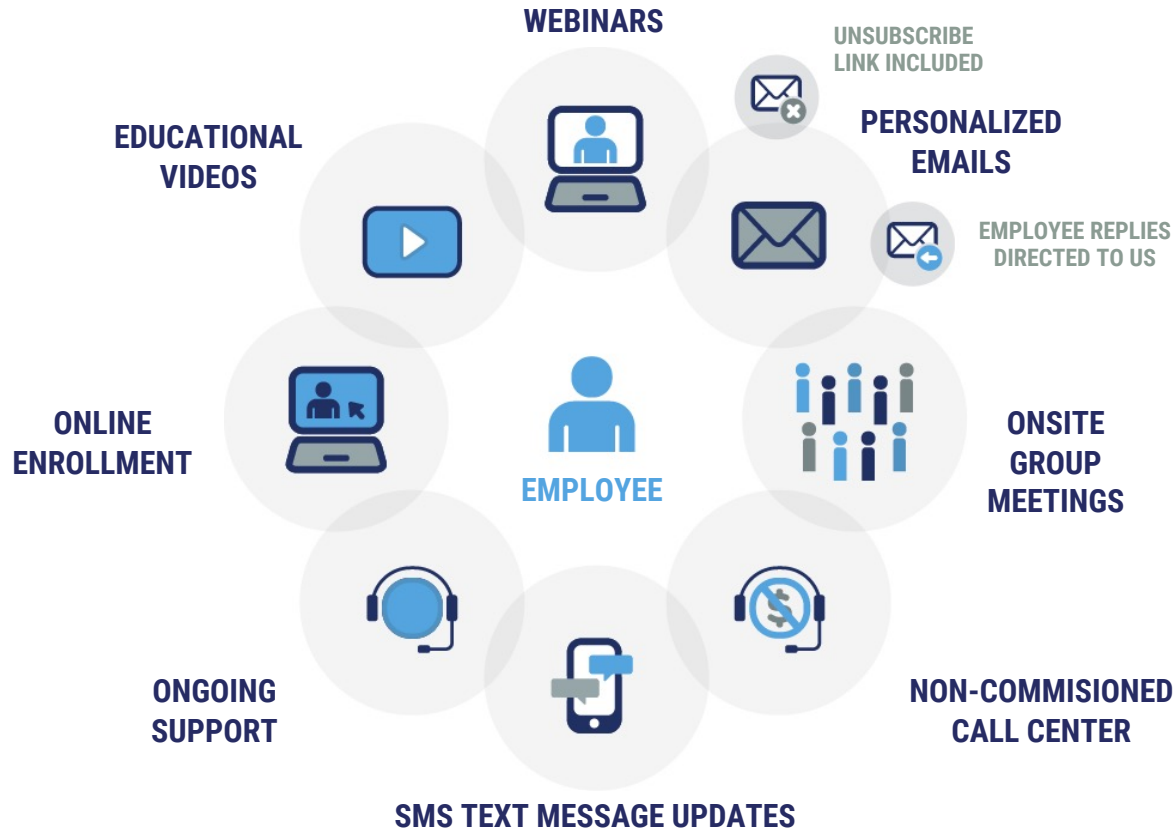
How to communicate **infrequent and complex** financial decisions to employees.

- **Make it simple:** Showcase limited plan choices, limit “text heavy” content. Boil it down to what your employees need to know.
- **Frequency:** Your employees are very busy, so frequency of touchpoints matters more than the content. Bite-sized, easily understandable content is key.
- **Mandated choice:** It’s human nature to simply “do nothing,” but we all agree that this coverage is important. Mandated choice is the next-best thing to an opt-out only approach.
- **Decision support:** When financial decisions are infrequent and difficult, individuals need help from an expert—us.

Employees are most likely to need ‘nudges’ for these decisions.

Source: Cass R. Sunstein, Nudging: A Very Short Guide, 37 J. Consumer Pol’y 583 (2014), 1 Davis, supra note 6, at 1382.

Enrollment Communication Touchpoints



Online Enrollment : Learning Center

MORE INFORMATION HOW TO BUILD A POLICY WEBINAR REGISTRATION PHONE: (866) 909-8086

→

Step #1: Watch Video (43 Seconds)



Step #2: Login

Click "Get Started" to run a no-obligation quote.

Guaranteed acceptance available until **4/24/2020**.

[Register for a live webinar session.](#)

Get Started

EDUCATIONAL WEBSITE LOGIN & LANDING PAGE

Americans realize the importance of LTC coverage

More than half of Americans say they need long-term care coverage yet only around 1/3 have coverage. As we age the likelihood of need long-term care services increase. The most recent US Department of Health & Human Services data says around 70% of us will need care at some point. That's a big number! The good news is the Trustmark program offers you both life insurance, to protect your family now, and long-term care coverage if you happen to need those services later on.



More than **half** of Americans say they need LTC coverage... **57%**

...but **only 1/3** of Americans have set money aside for LTC **33%**

Sources:
LHMA and Life Happens, 2017 Insurance Barometer Study, Westlake, CT
Associated Press, NBER Center for Public Affairs Research, Long-Term Care in America: Expectations and Preferences for Care and Coping, Chicago, IL, 2016

Life Insurance

Life insurance protects your family with money that can be used any way they choose. It is most often used to pay for mortgage or rent, education for children and grandchildren, retirement, family debt, and final expenses. You can select up to \$150,000 with **GUARANTEED** acceptance into the program.



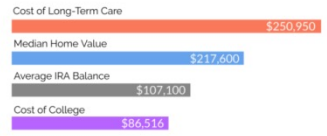
Long-Term Care (LTC)

If you become chronically ill, your policy will pay you **4% of your selected life insurance** amount each month you receive Long Term Care. You will have access to 2x your life insurance amount to help pay for LTC services.

Example: \$100,000 of life insurance would pay \$4,000 per month in LTC benefits with a total LTC benefit of \$200,000.

The cost of Long-Term Care compared to your Assets & Expenses

Long-term care services can be expensive. According to the US Department of Health and Human Services, the average cost of care can range from \$48,048 - \$100,380 depending on the type of care you are receiving and where you are receiving that care. Long-term care planning should be included in any responsible personal financial plan.



Category	Value
Cost of Long-Term Care	\$250,950
Median Home Value	\$217,600
Average IRA Balance	\$107,100
Cost of College	\$86,516

Sources:
Cost of Care: Genworth 2018 cost of care survey, assumes average private nursing home care cost (\$8,365 per month) for average person at 2.5 years
Median Home Value: U.S. Census Bureau, 2013-2017 American Community Survey
Average IRA Balance: Fidelity, Q1 2019 Retirement Trends
Cost of College: USA News 2019-2020, average tuition & fees. Assumes cost of state public college.

ADDITIONAL SITE CONTENT

Online Enrollment : Login

LONG-TERM CARE + LIFE INSURANCE

- The online enrollment portal uses EEID to login.
- Contains benefit rates and online enrollment form.
- Application can take less than 5 min.
- Employees have access to call center support.

Employee ID

PIN

[Forgot PIN?](#)

[Log in](#)

By entering your user ID and Personal Identification Number, you are agreeing to the terms of the [Consent to Enroll Electronically](#).

Welcome!

To use this website, you must have your Workday ID and your confidential Personal Identification Number (PIN). If you have problems logging in, click the "Forgot PIN?" link at the left.

Enrollers, use the [admin site](#) instead.

[Security Info](#) | [Privacy Policy](#)

Online Enrollment : Sample Benefits/Rates

- Answer “Are you actively at work?”
- Answer tobacco use question
- Pre-determined benefit amounts
- “Sample” Costs shown are per month

UBI Self-Service Demo | John A. Smith (0) | Self-Enroll
(You Complete)

Home You & Your Family My Benefits Sign & Submit Logout

Trustmark
benefits beyond benefits

Universal Life Events

Insurance for John A. Smith

Has the Proposed Insured used tobacco or Nicotine Products in Last 12 Months?

Yes
No

Is the employee actively at work performing the regular duties of the job in the usual manner and at the usual place of employment?

Yes

My Benefits

Chubb Lifetime Benefit Term \$0.00 (Demo)

Total Cost \$0.00
Per Pay Period

Cost per Pay Period	Benefit Amount
☐ \$13.00	28,942.49
☐ \$22.46	50,000
☐ \$33.69	75,000
☐ \$44.92	100,000
☐ \$56.15	125,000
☐ \$67.37	150,000
☐ \$78.60	175,000
☐ \$89.83	200,000
☐ \$101.06	225,000
☐ \$112.29	250,000

Enrollment Timeline : Sample Calendar

August 2021 (Off-Cycle)



Live Webinars

■ Week of 8/16



Email

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	1	2	3	4

ENROLLMENT EXTENSION

- Internal HR “Coming Soon” – 8/5
- Main Announcement – 8/9
- How it Works/Webinar Schedule – 8/12
- Webinar Reminder – 8/17
- Personal Rate Quote – 8/19
- Time is Running Out – 8/23
- Last Chance (Soft Close) – 8/27
- Enrollment Extension – Week of 8/30

Other internal communications: benefits guide, benefit website, emails, etc.



Next Steps:

1. AWC Trust employers respond to survey indicating participation by June 22
2. AWC Trust employers provide census data to Trust staff by June 25 (or update SIMON by July 2)
3. AWC Trust files are complete and ready for Trustmark by July 6th
4. AWC Trust will provide all participating employers with Trustmark approved communication materials by July 16th
5. Program launches on 8/9, website and call center opens
6. Enrollment ends on 8/27



Questions/Contact:

1. Questions, Feedback, Discussion
2. AWC Trust Follow-Up Contact:
 1. Telephone: 1-800-562-8981
 2. Email: benefitinfo@awcnet.org



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Resolution – South Sound Housing Affordability Partners (SSHA ³ P)	Agenda Item #: 2.D
	For Agenda of: 7/20/2021
	Prepared by: Daryl Eiding
Attachments (list): 1. RESOLUTION NO. 21-0571 2. SSHAP Intergovernmental Agreement 07.09.21 v15 track changes 3. SSHAP Intergovernmental Agreement 07.09.21 Clean Final Draft 4. Edgewood Council Meeting 7.20.2021	
Approval of Materials: Daryl Eiding Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eiding 7/15/2021	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 07/20/2021 SS Discussion 07/27/2021 RCM Consent Agenda

Summary Statement:

For the past two years Pierce County mayors, officials and Tacoma have been working on how to deal with housing shortages and affordability in our county. They have formed the group SSHA³P, and are looking to have a joint effort to work for solutions and possible legislative and grant support for their efforts. Joining this group would allow the City of Edgewood to have a seat at the table for any further decisions that will affect the region as a whole.

Item History:

Recommended Action:

Hold a discussion and provide staff direction to Discussion – Resolution – South Sound Housing Affordability Partners (SSHA³P)

Fiscal Note/Consideration:

RESOLUTION NO. 21-0571

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AUTHORIZING MAYOR TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT FOR SSHA^{3P} SOUTH SOUND HOUSING AFFORDABILITY PARTNERS

WHEREAS, the recent increases in the cost to purchase or rent housing in Pierce County has resulted in more than one-third of all households in the county considered cost-burdened, paying more than 30% of their income for housing costs; and

WHEREAS, in the past decade increases in Pierce County median home sales prices (108%) and rental rates (78%) have dramatically outpaced the increases in median household incomes (10%); and

WHEREAS, the recent global pandemic has placed new pressures on the housing market, with the economic downturn resulting in many households unable to afford rent or mortgage payments, anticipated increases in the number of evictions and foreclosures (including among those small rental property owners who have not been receiving rental payments), and at the same time increased demand for purchasing homes due to historically low interest rates and the large increase in the number of those now working remotely; and

WHEREAS, Pierce County, several Pierce County cities, and the Puyallup Tribe of Indians (collectively, the “Parties”) formed a steering committee to explore developing a regional coalition around housing affordability; and

WHEREAS, the Parties have a common goal to ensure the availability of housing that meets the needs of residents and workers at all income levels in Pierce County, including but not limited to families, veterans, and seniors; and

WHEREAS, the Parties share a common goal to eliminate housing inequities for all races, ethnicities and other vulnerable or marginalized communities and geographic locations in Pierce County; and

WHEREAS, the Parties wish to provide a sound base of housing policies and programs in Pierce County and to complement the efforts of local governments and existing public and private organizations to address housing needs in Pierce County; and

WHEREAS, the Parties wish to act cooperatively to formulate policies that create access to affordable/attainable housing policies and strategies that address housing stability by helping homeowners and renters stay in their homes, ensure an ample housing supply that remains affordable for all income levels, provide incentives for affordable/attainable housing for lower and middle income households, foster efforts to preserve and provide access to affordable/attainable housing by combining public funding with private-sector resources, and support implementation

of the goals of the Washington State (the “State”) Growth Management Act, related countywide planning policies, and other local policies and programs relating to providing access to affordable and attainable housing, and to do so efficiently and expeditiously; and

WHEREAS, the Parties have determined that the most efficient and effective way for the Parties to address access to affordable and attainable housing needs in Pierce County is through cooperative action and pooling their resources to create a larger scale of activities than any one Party could accomplish on their own, achieve economies of scale, and leverage other public and private resources; and

WHEREAS, the intent of this cooperative undertaking is not to duplicate efforts of non-profit corporations and other entities already providing affordable/attainable-housing-related services; and

WHEREAS, a cooperative work plan with a primary focus on the production and preservation of affordable/attainable housing, is needed because the lack of access to affordable/attainable housing is one of the key contributors to homelessness;

WHEREAS, the Parties are each empowered to promote the public health, safety, and welfare, pursuant to RCW 36.32.120(7), RCW 35.22.195, and RCW 35A.11.020; and

WHEREAS, the Parties are authorized by Revised Code of Washington 39.34 to enter into agreements for the joint exercise of governmental powers; and

WHEREAS, the Edgewood City Council has determined it is in the best interests of the City and its citizens to join in the South Sound Housing Affordability Partnership intergovernmental agreement; and

WHEREAS, on July 20, 2021, the Edgewood City Council considered this matter in a study session; and

WHEREAS, on July 27, 2021, the Edgewood City Council took final action on this Resolution during its regular meeting; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. SSHA³P Agreement Authorized. The City Council authorizes the Mayor to execute the Intergovernmental Agreement for SSHA³P South Sound Housing Affordability Partners in substantially the same form as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. Effective Date. This resolution will take effect immediately upon passage by the City Council.

ADOPTED THIS 27th DAY OF JULY, 2021

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, CMC
City Clerk

**Intergovernmental Agreement for SSHA³P
South Sound Housing Affordability Partners**

(Effective Date: **Date of Execution**)

This Intergovernmental Agreement ("Agreement") is entered into by and between the Cities of **??**, Pierce County (each municipal corporations and political subdivisions of the State of Washington), and the Puyallup Tribe of Indians, a federally-recognized Indian tribe (the Tribe) Individually each member of SSHA³P is a "Party" and collectively, the "Parties". This Agreement relates to the creation and operation of a joint undertaking among the Parties hereto to be known as the South Sound Housing Affordability Partners ("SSHA³P"). This Agreement is made pursuant to the Intergovernmental—Interlocal Cooperation Act, chapter 39.34 RCW, and has been authorized by the legislative body of each government.

WHEREAS, the recent increases in the cost to purchase or rent housing in Pierce County has resulted in more than one-third of all households in the county considered cost-burdened, paying more than 30% of their income for housing costs; and

WHEREAS, in the past decade increases in Pierce County median home sales prices (108%) and rental rates (78%) have dramatically outpaced the increases in median household incomes (10%); and

WHEREAS, the recent global pandemic has placed new pressures on the housing market, with the economic downturn ~~turnown~~ resulting in many households unable to afford rent or mortgage payments, anticipated increases in the number of evictions and foreclosures (including among those small rental property owners who have not been receiving rental payments), and at the same time increased demand for purchasing homes due to historically low interest rates and the large increase in the number of those now working remotely; and

WHEREAS, the Parties have a common goal to ensure the availability of housing that meets the needs of residents and workers at all income levels in Pierce County, including but not limited to families, veterans, and seniors; and

WHEREAS, the Parties share a common goal to eliminate housing inequities for all races, ethnicities and other vulnerable or

marginalized communities and geographic locations in Pierce County; and

WHEREAS, the Parties wish to provide a sound base of housing policies and programs in Pierce County and to complement the efforts of local governments and existing public and private organizations to address housing needs in Pierce County; and

WHEREAS, the Parties wish to act cooperatively to formulate policies that create access to affordable/attainable housing policies and strategies that address housing stability by helping homeowners and renters stay in their homes, ensure an ample housing supply that remains affordable for all income levels, provide incentives for affordable/attainable housing for lower and middle income households, foster efforts to preserve and provide access to affordable/attainable housing by combining public funding with private-sector resources, and support implementation of the goals of the Washington State (the "State") Growth Management Act, related countywide planning policies, and other local policies and programs relating to providing access to affordable and attainable housing, and to do so efficiently and expeditiously; and

WHEREAS, the Parties have determined that the most efficient and effective way for the Parties to address access to affordable and attainable housing needs in Pierce County is through cooperative action and pooling their resources to create a larger scale of activities than any one Party could accomplish on their own, achieve economies of scale, and leverage other public and private resources; and

WHEREAS, the intent of this cooperative undertaking is not to duplicate efforts of non-profit corporations and other entities already providing affordable/attainable-housing-related services; and

WHEREAS, a cooperative work plan with a primary focus on the production and preservation of affordable/attainable housing, is needed because the lack of access to affordable/attainable housing is one of the key contributors to homelessness;

WHEREAS, the Parties are each empowered to promote the public health, safety, and welfare, pursuant to RCW 36.32.120(7), RCW 35.22.195, and RCW 35A.11.020; and

WHEREAS, the parties are authorized by Revised Code of Washington 39.34 to enter into agreements for the joint exercise of governmental powers.

NOW, THEREFORE, ~~in consideration of the mutual promises, benefits and covenants contained in this Agreement and other valuable consideration, the sufficiency of which is acknowledged,~~ the Parties agree to the above Recitals and the following terms and conditions:

1. DEFINITIONS. The following terms used in this Agreement are defined as follows:

a. *Administering Agency* - One or more of the Parties that will provide administrative support services on behalf of SSHAP. The role of the Administering Agency will be to serve as the fiscal agent for SSHAP, in accordance with the requirements of chapter 39.34 RCW, and provide space and administrative support for the SSHAP staff. These roles could be provided by one Party or the roles could be split and provided by two Parties.

b. *Advisory Board* - A board consisting of 15 to 20 community members and/or key stakeholders appointed by the Executive Board to provide advice and recommendations to the Executive Board on policy needs related to housing stability, program design and development, land and/or funding resource allocation for enhancing access to affordable/attainable housing projects, and other immediate affordable/attainable housing needs, and to provide public education and community outreach support.

c. *Area of Activity* - The area in Pierce County where SSHAP is expected to conduct its work, and where future expansion of SSHAP membership could occur, as further described in Exhibit A.

d. *Direct Service Housing* - Direct service housing programs may include but are not limited to relocation assistance programs, rent voucher and/or deposit loan programs.

e. *Executive Board* - The governing board for SSHAP comprised of members as provided herein, which will act on behalf of all Parties and as may be in the best interest of SSHAP in order to carry out the purposes of this Agreement.

ef. *SSHAP Fund* - A fiduciary special-fund established by the Administering Agency, as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SSHAP Executive Board". Within the SSHAP Fund may be established various ~~accounts~~-subfunds and/or subaccounts including but not limited to a "SSHAP Operating Account" and a "Housing Capital Funds Account".

i. *SSHA³P Operating Account* - A ~~sub~~ subaccount or subfund created by the Administering Agency for the receipt of contributions from the Parties and other private or public entities, for the purpose of paying for the operations of and supporting the SSHA³P annual budget.

ii. *Housing Capital Funds Account* - A ~~sub~~ subaccount or subfund established by the Administering Agency within the SSHA³P Fund for the purpose of administering the voluntary contributions of Parties, or other public or private entities, to affordable/attainable housing projects and programs, to be known as the SSHA³P Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency.

iii. *Individual Account(s)* - One or more subaccounts or subfunds established within the Housing Capital Funds Account for each Party to this Agreement that chooses to contribute to the Housing Capital Funds Account. Contributions to an Individual Account from a Party may be released only upon, and in accordance with, the written direction of that Party.

~~fg.~~ *SSHA³P Executive Manager* - The managing lead staff for SSHA³P, ~~reporting to the Executive Board, will be~~ responsible for carrying out the SSHA³P annual work plan, as developed by the Executive Board, and other terms of this Agreement. The Executive Manager will be an employee of the Administering Agency subject to the human resource rules and requirements of that agency.

~~gh.~~ *SSHA³P Staff* - The full-time and part-time staff hired or assigned by the Administering Agency with the responsibility for carrying out the SSHA³P work plan, under the direction of the SSHA³P Executive Manager.

2. PURPOSE. All Parties to this Agreement have responsibility for local, regional and tribal planning for the provision of housing affordable to residents that work and/or live in Pierce County. The Parties agree to act cooperatively to formulate housing policies that address access to affordable/attainable housing, housing stability and to foster efforts to preserve and create affordable/attainable housing by combining public funding or other resources with private-sector resources. In order to accomplish the purposes of this Agreement, the Parties agree to create a joint, voluntary and cooperative undertaking responsible for administering the activities described herein. The cooperative undertaking among the Parties will be

called the South Sound Housing Affordability Partners ("SSHA³P"). The Parties further intend that this Agreement serve as a framework for all participating municipalities within the broader SSHA³P Area of Activity to do the aforementioned work. It is the intent of the Parties to create a collaboration that involves members representing broad geographic diversity across the county, governments of different sizes, and regional perspectives about affordable, attainable and accessible housing needs and solutions. The Parties encourage other cities and tribes and other public and private entities in Pierce County within the SSHA³P Area of Activity to join the Parties in this endeavor.

3. STRUCTURE; CREATION OF JOINT BOARD. By executing this Agreement, the Parties hereto create a joint board pursuant to RCW 39.34.030(4) to govern SSHA³P. The joint board created by this Agreement will be called the "Executive Board" and will be composed of members as provided for in Section 5.a of this Agreement. The Joint Board created in this Agreement is not a separate legal or administrative entity within the meaning of RCW 39.34.030(3). The Executive Board will act on behalf of all Parties and as may be in the best interest of SSHA³P in order to carry out the purposes of this Agreement. The Executive Board is not authorized to own assets or have employees.

4. RESPONSIBILITIES AND AUTHORITY. In order to carry out the purposes of SSHA³P and this Agreement, the Executive Board will have the responsibility and authority to:

a. Create and implement an annual work plan approved by the Executive Board to guide the work of SSHA³P Staff. The work plan will include activities that may benefit multiple participating jurisdictions or individual jurisdictions. The work plan activities will be consistent with the purpose described in this Agreement. The Executive Board will determine how it will track, monitor and report on progress on the work plan and the timeliness of deliverables. For purposes of accountability and transparency, this will include methods for timely reporting to members and to the public.

b. Make decisions regarding the allocation of public and private funding deposited into the SSHA³P Housing Capital Funds Account for the purpose of enhancing access to affordable/attainable housing.

c. Direct—Recommend to the Administering Agency to enter into agreements with third parties for the use and application of public and private funds contributed by individual

Parties to the SSHA³P Fund, including the Housing Capital Funds Account established in Section 14, under terms and conditions as may be agreed by the individual contributing Parties, as further described in Section 14. At least annually, report to the Parties on the geographic distribution of all housing capital funds as recommended by the SSHA³P Executive Board.

d. Guide the SSHA³P Staff in the performance of the following duties:

- i. Provide recommendations to the Parties regarding local and regional policies to improve access to affordable/attainable housing. SSHA³P Staff may assist the Parties in developing strategies and programs to achieve State Growth Management Act housing goals, growth targets, local Comprehensive Plan Housing Element goals, and local housing strategy plans, as appropriate.
- ii. SSHA³P Staff may provide technical assistance as requested to any Party considering adoption of land use incentives or requirements, or programs to enhance access to affordable/ attainable housing. SSHA³P Staff may research model programs, develop draft legislation, prepare briefing materials and make presentations to planning commissions and councils on request by a Party. SSHA³P Staff may assist Parties in developing strategies and programs to implement county-wide affordable/attainable housing policies to meet State Growth Management Act objectives, growth targets, local Comprehensive Plan Housing Element goals, and local housing strategy plans for an equitable and rational distribution of low- and moderate-income housing.
- iii. Facilitate cooperation between the private and public sector with regard to the provision of and access to affordable/attainable housing. SSHA³P Staff may communicate directly with private developers, financial institutions, non-profit corporations and other public entities to assist in the implementation of affordable/attainable housing projects. SSHA³P Staff may work directly with any Party to provide technical assistance with regard to the public funding of affordable/attainable housing projects and the

implementation of affordable/attainable housing regulatory agreements for private developments.

- iv. SSHAP Staff may also identify public and private sites that are available for affordable/attainable housing and develop housing alternatives for such sites.
- v. After the Housing Capital Fund is created, develop standard regulatory agreements acceptable to private and public financial institutions to facilitate the availability of funding for private and public projects containing affordable/attainable housing, and other documents and procedures as appropriate.
- vi. Provide other technical advice to any Party upon request and, as staff capacity allows, ~~to~~ enter into agreements to provide technical assistance to other public entities on a reimbursable basis.
- vii. Provide support and educational activities and to monitor legislative and regulatory activities and proposed policy changes related to enhancing access to affordable/attainable housing at the county, state and federal levels. Ensure that the Parties to this Agreement have a strong Pierce County voice in federal, state and regional decision making regarding affordable/attainable housing programs, policy and funding. All lobbying activities will comply with state laws and regulations.
- viii. After the Housing Capital Fund is created, develop and carry out procedures for monitoring of affordable/attainable units and to administer direct service housing programs on behalf of any Party. ~~Such direct service housing programs may include but are not limited to relocation assistance programs, rent voucher and/or deposit loan programs.~~
- ix. Work directly with other public and private entities for the development of affordable/attainable housing policies and encourage the provision and preservation of affordable/attainable housing.

- x. Work with the Advisory Board appointed under this Agreement and Pierce County agencies and organizations working on regional housing stability and access to affordable and attainable housing, identify trends and promising practices, and mobilize those agencies and organizations to support Pierce County positions in regional, state and federal decision-making forums.
- xi. Support public and private fundraising efforts of public and private entities (including non-profit corporations) to raise funds to carry out the purposes of this Agreement. Enter into agreements with those entities for the use of such funds in order to carry out the purposes of this Agreement.
- xii. As ~~directed~~ recommended by the Executive Board, accept public and private funding, receive and invest those funds in accordance with State and Federal law, and take other appropriate and necessary action to carry out the purposes of this Agreement.

5. EXECUTIVE BOARD.

a. Membership. SSHAP³ will be governed by an Executive Board composed of individuals who represent the perspectives of their governments.~~have authority to make decisions on the Board on behalf of their governments.~~

- For cities/towns: Members will either be Mayors or, as designated by the Mayor, Council members or a City Manager/Administrator.
- For tribes: Members will be the Tribal Council Chair or a member of the Tribal Council as designated by the Chair.
- For the county: Members will be the County Executive, and the County Council Chair (or their designee).

Each Party will have one vote on the Executive Board. For purposes of voting, the County shall be considered an individual Party and entitled to one vote. The vote will be split equally between the County's two Executive Board members.

Municipalities, local governments, tribes and public agencies within the Area of Activity may become Parties to this Agreement with representation on the Executive Board described in this Section 5, upon satisfaction of the requirements of Section 20.

The Executive Board will administer this cooperative undertaking under the terms of this Agreement and under any procedures adopted by the Executive Board.

b. Officers. The Chair and Vice Chair of the Executive Board will be elected by the members of the Board from the Board membership. The Chair, or in their absence the Vice Chair, will preside over all meetings of the Executive Board; and will, in the absence of an Executive Manager provided for in Section 6 of this Agreement, process issues, organize meetings and provide for administrative support as required by the Executive Board. The Chair will serve a one-year term, but may be reelected by the Executive Board for one additional term.

c. Alternate Member. Each member of the Executive Board may designate one alternate member who will serve in the place of the member on the Executive Board during the member's absence from a meeting. Notice of the designation will be provided to the Chair of the Executive Board. An alternate member may only vote on behalf of the Party if the Chair has received written notice of the alternate's appointment. It is not intended that alternates will serve on the Board in an ongoing capacity.

d. Powers. It is intended that the Executive Board will serve as a decision-making body for SSHAP. The Executive Board will have the power to:

- i. develop and ~~approve~~ recommend an annual budget and annual work plan for SSHAP and oversee the management of the SSHAP Fund;
- ii. adopt procedures for the administration of SSHAP (including securing any necessary legal counsel as needed) and for the conduct of meetings;
- iii. make recommendations to the Parties concerning planning, policy, programs and the funding of projects to enhance access to affordable/attainable housing;
- iv. establish policies for the expenditure of SSHAP budgeted items;
- v. work with the designated Administering Agency (see Section 6) to carry out the terms of this Agreement;
- vi. work with the Administering Agency to establish a special fund within the Administering Agency as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SSHAP Executive Board" ("SSHAP Fund") within which Fund may be established various accounts and subaccounts including but not

- limited to a "SSHA³P Operating Account" (into which will be deposited funding for the SSHA³P operating budget) and a "Housing Capital Funds Account";
- vii. hold regular meetings on those dates and at those places as the Executive Board may designate;
 - viii. recommend that the Administering Agency ~~to~~ enter into contracts and agreements for the provision of personnel and other necessary services to SSHA³P, including accounting and legal services and the purchase of insurance, and authorize ~~advise~~ the Administering Agency to execute such other contracts, agreements or other legal documents necessary with public and private entities for SSHA³P to carry out its purposes;
 - ix. work with the Administering Agency to: establish the responsibilities for the SSHA³P Executive Manager, ~~direct and oversee the Administering Agency in~~ conduct the hiring process and performance review for that position and direct and oversee the activities of the SSHA³P Executive Manager;
 - x. create a recruitment process and appoint members of the Advisory Board;
 - xi. assist with incorporating and/or work with a non-profit corporation to accept grants, donations and other funds on behalf of SSHA³P and ~~direct~~ recommend the Administering Agency to enter into contracts or other agreements with such agency for the use of those funds to carry out the purposes of this Agreement; and
 - i.xii. take whatever other action is necessary to carry out the purposes of this Agreement.

6. ADMINISTRATION AND OVERSIGHT. The Executive Board will have final decision-making authority on behalf of SSHA³P over all legislative priorities and administrative matters within the scope of this Agreement. The Executive Board may delegate responsibility for general oversight of the operations of SSHA³P to an Executive Manager. The SSHA³P Executive Manager will submit quarterly budget performance and progress reports on the status of the work program elements to the Executive Board and annually to the legislative body of each Party. The reports and their contents will be in a form acceptable to the Executive Board.

The Executive Board will, by two-thirds supermajority vote, designate one or more of the Parties to serve as the Administering Agency, which will provide administrative support services on behalf of SSHA³P. Pierce County will be the SSHA³P Administering

~~Agency serving as the fiscal agent (in accordance with the requirements of chapter 39.34 RCW) and providing administrative support services.~~ To change the Administering Agency, the Executive Board will, by two-thirds supermajority vote, designate one or more of the Parties to serve as the Administering Agency. Each Party that serves in the capacity of Administering Agency hereby agrees to comply with the terms of this Agreement applicable to the Administering Agency in order to permit SSHAP to carry out its purposes. SSHAP will be staffed with personnel funded by the Parties and/or independent contractors contracting with the Administering Agency on behalf of SSHAP.

Any Party providing personnel to SSHAP will remain solely responsible for the continued payment of all compensation and benefits to those personnel as well as for any worker's compensation claims. All Parties will cooperate fully in assisting SSHAP to provide the services authorized in this Agreement.

7. MEETINGS OF EXECUTIVE BOARD.

a. Frequency. The Executive Board will meet as often as it deems necessary, but not less often than quarterly. Executive Board meetings will comply with the requirements of the State Open Public Meetings Act (OPMA).

b. Quorum. A quorum at any meeting of the Executive Board will consist of the Board members (or alternates) who represent a simple majority of the Board's membership. ~~Executive Board members (or alternates) may participate in any meeting by phone and/or video conferencing for all purposes, including but not limited to voting and establishing a quorum.~~

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Executive Board requires an affirmative vote by a majority of the Board's ~~membership~~ members present at a meeting, provided however, that a supermajority (two-thirds of all Board members) will be required to change the Administering Agency, or to modify the proposed contribution methodology for dues and assessments (see Section 15). Official action by the Executive Board may be conducted by motion, resolution, declaration, or such means as determined to be necessary by the Executive Board in their procedures for conducting meetings (referred to in 5.d above), provided however, changing the Administering Agency or Agencies shall be completed by resolution. All official action of the Executive Board shall be recorded in its official minutes. Each Executive Board member, or his or her alternate, will have one vote on any proposed action;

except that shared member voting shall be in accordance with the Executive Board's approval under Section 5 (a). Proxy voting will not be allowed. To the extent applicable to meetings of the Executive Board, the Executive Board will comply with applicable requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

8. ADVISORY BOARD.

a. Purpose and Role. The Executive Board will create an Advisory Board to provide advice and recommendations on the work of SSHAP. Specific objectives shall be to advise the Executive Board regarding: assessment of affordable/attainable housing needs for different populations in Pierce County; the development of policies and/or funding resources to meet those needs; the priorities for allocation of future SSHAP capital resources to create or preserve access to affordable/attainable housing; input on program design and development related to housing affordability and stability; suggested approaches to federal, state and regional legislative advocacy; and providing support for public education and community outreach activities. The Advisory Board will be created before the end of the first year of SSHAP operations (with the start of the year defined as the hiring of the SSHAP Executive Manager).

b. Membership. The Advisory Board will consist of not more than twenty (20) and not less than fifteen (15) community members and/or key stakeholders. The Executive Board will appoint members to the Advisory Board. Appointed members must have knowledge and understanding of affordable/attainable housing and be committed to the furtherance of improving access to affordable/attainable housing for all in Pierce County. Membership should reflect a geographic diversity of Pierce County cities, towns, tribes and unincorporated areas. Membership will reflect one-third consumers of affordable/attainable housing (rental and ownership housing), one-third developers, designers, planners, managers of affordable/attainable housing, and one-third advocates and advisors who work on land use and housing issues.

c. Terms. Appointments will be for a three-year term ~~with service limited to a total of two consecutive terms~~. When the Advisory Board is created, the initial terms of members shall be staggered as follows:

- One-third shall be appointed for a one-year term
- One-third shall be appointed for a two-year term
- One-third shall be appointed for a three-year term

The membership categories of the Advisory Board, described in section 8.b above, will be evenly distributed across the three initial terms.

d. Recruitment and Termination. The Executive Board will adopt procedures for the recruiting, convening and administration of the Advisory Board. A member may be removed from the Advisory Board by the Executive Board with or without cause on a majority vote of membership of the Executive Board.

e. Officers. When the Advisory Board has been duly created, the members shall elect a Chair and Vice Chair, who will be responsible for working with the SSHAP Executive Manager to set agendas and facilitate meetings.

f. Conflict of Interest. ~~Members~~~~No member~~ of the Advisory Board shall comply with Ch. 42.23 RCW, the Code of Ethics for Municipal Officers. ~~may vote on a Board recommendation if the result would financially benefit an agency or organization of which the Member is a decision-making officer, or is in a position of authority or responsibility.~~ It is the responsibility of each Board Member to declare potential conflicts of interest. The Chair shall be responsible for mediating differences of opinion on these matters as they may arise.

9. MEETINGS OF ADVISORY BOARD.

a. Frequency. The Advisory Board will meet as often as it deems necessary, but not less often than quarterly.

b. Quorum. A quorum at any meeting of the Advisory Board will consist of the Board members who represent a simple majority of the Board's membership. Advisory Board members may participate in any meeting by phone and/or video conferencing for all purposes, including but not limited to voting and establishing a quorum.

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Advisory Board requires an affirmative vote by a majority of those members attending a Board meeting where a quorum exists. Official action by the Advisory Board may be conducted by motion, resolution, declaration, or other means as determined to be necessary by the Advisory Board. Proxy voting is not allowed. To the extent applicable to meetings of the Advisory Board, the Advisory Board will comply with applicable

requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

10. AGREEMENT DURATION. This Agreement will be in full force and effect for a period commencing as provided in Section 34, and ending December 31, 2023. This Agreement will automatically renew for successive two-year terms, unless sooner terminated under the provisions of this Agreement.

11. TERMINATION OF AGREEMENT. This Agreement may be terminated at any time by affirmative vote of a majority of the legislative bodies of the Parties to this Agreement. Parties may consider multiple factors/reasons for termination, including but not limited to the timeliness of work plan deliverables and the sufficiency of dues to support the work plan and SSHA³P staff.

Upon termination of this Agreement, all property acquired during the life of the Agreement will be disposed of in the following manner:

a. all property contributed without charge by any Party will revert to the contributing Party;

b. all property purchased on behalf of SSHA³P after the effective date of this Agreement will be distributed to the Parties based on each Party's pro rata contribution to the overall budget at the time the property was purchased;

c. except as provided in Subsection d. below, all unexpended or reserve funds will be distributed to the Parties based on each Party's pro rata contribution to the overall budget in effect at the time the Agreement is terminated;

d. all uncommitted monies in the Housing Capital Funds Account will be distributed to the Parties by remitting the total uncommitted amounts remaining in each Party's Individual Account (as described in Section 14) to that Party; and

e. each Party that has funded a project through the Housing Capital Funds Account will be substituted for the Administering Agency with regard to all project financing documents, and the Administering Agency will be released from further obligations with respect thereto.

12. WITHDRAWAL. If a Party wishes to withdraw from participation in this Agreement, it may do so after the initial term if its Legislative Body first gives six months advance written notice to the Executive Board of its intention to withdraw, which

notice will be due on or before June 30, 202~~32~~³. If notice of an intent to withdraw is timely received, withdrawal will be effective as of 11:59 p.m. on December 31, 2023. The initial members of SSHA³P agree they will participate for at least through the first full term of the collaboration.

After December 31, 2023, an opportunity is provided once per year for a Party to withdraw from this Agreement. Under this provision, advance written notice must be provided from the Legislative Body of any Party to this agreement to the Executive Board on or before June 30, of its intention to withdraw from participation in the Agreement, effective as of 11:59 p.m. on December 31st of that current year.

Any Party withdrawing from this Agreement will remain legally and financially responsible for any obligation incurred by the Party pursuant to the terms of this Agreement, including but not limited to any project financing documents executed by the Administering Agency on behalf of that Party, during the time the withdrawing Party was a member of SSHA³P. A notice of withdrawal may be revoked by the Party that submitted the notice only by approval of a majority of the Executive Board to accept the revocation. Any Party that provides written notice of its intent to withdraw may continue to vote on all matters before the Executive Board prior to the effective date of its withdrawal, except the budget and work plan for the following year.

13. BUDGET. The fiscal year for SSHA³P will be January 1 to December 31 of any year. The first year budget and anticipated second year budget for SSHA³P are attached to this Agreement as Exhibit B and incorporated herein by this reference. Approval of this Agreement by the legislative body of each Party includes approval of the SSHA³P budgets through the first full term of the agreement. For subsequent years, on or before July 1st of each year, a recommended operating budget for SSHA³P for the following budget year will be prepared, reviewed and recommended by the Executive Board and transmitted to each Party. The recommended operating budget will contain an itemization of all categories of budgeted expenses and will contain an itemization of the amount of each Party's contribution, including in-kind services, toward that budget. Contributions to the SSHA³P annual budget may also come from other public or private entities. The Executive Board will approve acceptance of those contributions.

a. No recommended budget will become effective until approved by the legislative body of each Party and adopted by the Executive Board, except for SSHA³P's first full term (2021, 2022

and 2023). Once the legislative body of each Party has approved its contribution to SSHAP, either separately or through its budget process, and the SSHAP budget has been adopted by the Executive Board, each Party will be obligated to make whatever contribution(s) is budgeted for that Party. If a Party does not approve the budget in a timely manner, the Executive Board may adopt the annual budget and work plan with a two-thirds majority vote.

b. Each Party's contribution(s) will be transmitted to SSHAP on an annual basis no later than the end of the first quarter of each calendar year, unless otherwise provided in the budget document. The Administering Agency will submit invoices to each Party for their annual dues payments. Each Party will specify the amount of its contribution to be deposited by the Administering Agency into the SSHAP Operating Account, as well as the amount, *if any*, to be deposited into the Party's Individual Account within the SSHAP Housing Capital Funds Account established by Section 14.

c. If any Party is delinquent by more than three months in the payment of its approved operating budget contribution to the SSHAP Operating Account, that Party will not be entitled to vote on matters before the Executive Board until the delinquency has been paid. A Party's decision not to contribute funds to its Individual Account, or its delinquency in funding the same will not affect that Party's voting rights on the Executive Board.

14. HOUSING CAPITAL FUNDS ACCOUNT ESTABLISHED; PROCEDURES FOR ADMINISTERING HOUSING CAPITAL FUNDS ACCOUNT CONTRIBUTIONS. If authorized by resolution of the Executive Board, the Administering Agency may establish and maintain ~~a~~ subaccount or subfund within the SSHAP Fund for the purpose of administering the contributions of Parties, or other public or private entities, to affordable/attainable housing projects and programs, to be known as the SSHAP Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency as described in this Agreement.

a. Within the Housing Capital Funds Account, a sub-account or subfund will be established for each Party to this Agreement that chooses to contribute to the Housing Capital Funds Account. Such sub-accounts are collectively referred to as the "Individual Accounts." ~~Contributions to an Individual Account from a Party may be released only upon, and in accordance with, the written direction of that Party.~~ The Executive Board will work with

the Administering Agency to create policies and procedures for the release of those funds.

b. A subaccount ~~will~~may be established within each Individual Account for each project or program funded in whole or part by a Party from its Individual Account. Such sub-accounts are referred to as "Project Accounts." The intent is to create a structure that enables each Party to easily track the use of their contributed funds.

c. The Administering Agency will maintain records sufficient to separately track the deposits, withdrawals and interest earnings, within each Individual Account and each Project Account, and will provide quarterly reports to all Parties as to the status of funds in each Individual Account and Project Account. The Administering Agency's responsibilities under this Section may be delegated to the SSHAP Executive Manager to the extent consistent with applicable law and as the Administering Agency and Executive Board may agree.

d. Funds transmitted to SSHAP for deposit in the Housing Capital Funds Account will be held by the Administering Agency on behalf of SSHAP until directed for application by the contributing Party (as described in 14.a. above). Uncommitted funds in an Individual Account will be remitted to the contributing Party within 45 days of receipt of written request from the Party signed by its chief executive officer, or upon the Party's withdrawal from SSHAP in accordance with the terms of Section 12, or on the dissolution of SSHAP per Section 11.

e. Funds held by the Administering Agency on behalf of SSHAP will be subject to laws applicable to public funds, including but not limited to limitations on investments for public funds as provided in State law and the State constitutional limitations on the gifting of public funds. Investment earnings will be credited to each Individual Account and Subaccount on a pro rata basis.

f. The Executive Board will develop standard forms of approvals and agreements to be used in the application of funds contributed to the Housing Capital Funds Account (collectively referred to as "project financing documents"), consistent with the following goals and procedures:

i. The SSHAP Executive Board will authorize the application of specified amounts of Individual Account monies to projects or programs consistent

| with the purpose of the SSHA³P Capital Fund, and will authorize and ~~direct~~recommend the SSHA³P Executive Manager, and the Administering Agency to take such actions as necessary to accomplish this. At least two weeks prior to the Executive Board action they will notify the individual parties whose funds will be used for such projects or programs of the various terms to accompany their authorizations, and will at a minimum include terms related to:

1. amount of funds allocated;
2. project description, including minimum affordability requirements, if any;
3. nature of the funding commitment (loan, grant, or other);
4. in the event the funding commitment is provided as a loan, the general repayment terms including but not limited to the term of the loan and applicable, interest rate(s); and
5. a general description of the security interests, if any, to be recorded in favor of the Party.

- ii. For each individual housing project or program to be funded through the Housing Capital Funds Account, the developer, owner or administrator of such project or program (generally referred to as the "developer"), will enter into the necessary set of agreements (project financing documents) with the Administering Agency. The project financing documents will specify that the Administering Agency is acting as administering agency on behalf of each Party that is providing Housing Capital Funds Account funding to the project or program pursuant to this Agreement and RCW 39.34.030(4), and will identify each participating funding Party. The project financing documents will be consistent with general forms of agreement approved by the Executive Board and the terms and conditions approved by the legislative bodies of the funding Parties. To the extent permitted by law, the project financing agreements will incorporate all terms and conditions relative to the use and (if applicable) repayment of such funds, and provide for transfer of the Housing Capital Funds Account monies from the funding Parties to the developer.

- iii. Funding contributions to, and repayments (if any) from, specific projects and programs will be recorded by the Administering Agency, including recording of monies deposited and withdrawn from each Party's Individual Account and Project Accounts. Repayments (if any) under any project financing agreement will be applied *pro rata* to the funding Parties' Individual Accounts based on the ratio of funding contributed to the project by each Party, unless the funding Parties otherwise agree.
- iv. Unless the Parties funding a project or program through the Housing Capital Funds Account otherwise agree, a default, termination or other action against a developer or other third party may be declared only after securing approval in writing of the chief executive officers of funding Parties which together have contributed not less than 51% of the total SSHAP member funding to the project. The Administering Agency will provide reasonable notice and information regarding the status of projects as necessary to each funding Party's chief executive officer to allow them to make a timely decision in this regard. Funding Parties not consenting to such default, termination or other action will be bound by the decision of the majority. All funding Parties will be obligated on a pro rata basis (based on their contributions to the project) to pay to the Administering Agency its reasonable costs and expenses incurred as a result of declaring a default, terminating an agreement or taking other action against a developer or other third party. Any funds recovered through such enforcement proceedings will be allocated to the funding Parties Individual Accounts pro rata based on their respective funding contributions to a project.
- v. The Executive Board may from time to time authorize the Administering Agency to administer housing project agreements entered into before the effective date of this Agreement, upon terms consistent with this Agreement and subject to the consent of the Administering Agency and the Parties to such agreements.

15. DUES, ASSESSMENTS AND BUDGET AMENDMENTS. Contributions to the SSHA³P Operating fund will be based on groupings of like-sized cities (based on population), or whatever contribution methodology is approved by a two-thirds majority of the Executive Board. Funding for the activities of SSHA³P will be provided solely through the budgetary process. Unless otherwise specified in this Agreement, no dues, charges or assessments will be imposed or required of the Parties except upon unanimous vote of the membership of the Executive Board and ratification by the legislative body of each Party subject to the dues, charges or assessments. An approved budget (the overall revenues and expenditures) will not be modified until approved by the legislative body of each Party and finally adopted by the Executive Board. If a Party agrees to totally fund an additional task to the work program, not currently approved in the budget, the task may be added to the work plan and the budget amended to reflect the funding of the total cost of such task by the requesting Party, upon approval by a majority of the membership of the Executive Board without approval by the individual Parties. Notwithstanding the foregoing, contributions by a Party to its Individual Account within the Housing Capital Funds Account will be solely within the discretion of that Party and are not considered "dues or assessments."

16. PUBLIC RECORDS REQUESTS. Each party to this agreement shall be responsible for retaining and producing the records it creates, owns or uses, in accordance with applicable public records access and retention laws and regulations. Nothing in this Section is intended to require a Party to collect or produce records that are not prepared, owned, used, or retained by that agency as defined by the Public Records Act (RCW 42.56), other than as provided for herein.

The Administering Agency shall be responsible for maintaining and storing, in compliance with the state Public Records Act (Chapter 42.56 RCW), those records of the Executive Board and Advisory Committee that are created by the Administering Agency in connection with this Agreement (SSHA³P Records). SSHA³P records may include, but are not limited to, Executive Board and Advisory Committee meeting agendas, meeting summaries, reports, plans, budgets, and other related documents. For purposes of the Public Records Act, the SSHA³P Executive Manager shall serve as the Public Records Officer with respect to requests for SSHA³P records and the Administering Agency shall be responsible for ensuring compliance with RCW 42.56.152 (Training-Public Records Officers). Upon receipt of a request for SSHA³P records, the SSHA³P Executive Manager, serving as the SSHA³P Public Records Officer, shall timely

share the request with the Parties. In the event that the SSHA³P Executive Manager shares a request for SSHA³P records with the Parties, each party notified by the SSHA³P Executive Manager shall cooperate with the SSHA³P Executive Manager as requested to fulfill the request. Parties who receive requests for SSHA³P records or records related to SSHA³P are also encouraged, but not required, to share those with the SSHA³P Executive Manager.

Each party shall indemnify and hold the other party to this Agreement harmless for any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses including reasonable attorney's fees and costs arising from a public records require (collectively "Claims"), to the extent attributed to the indemnitor party's Fault. The term "Fault" as used herein shall have the same meaning as set forth in RCW 4.22.015. This obligation to indemnify and hold the other party harmless shall survive termination of this Agreement.

~~Records of SSHA³P will be held by the Administering Agency, in addition to any records the Parties themselves may retain concerning their participation in SSHA³P. These records may include meeting agendas, meeting summaries, reports, plans, budgets, and other documents.~~

~~When a Party receives a request for records that may be held by the Administering Agency, the Party will refer the request to its own Executive Board member. The Party's Executive Board member will then work with the Administering Agency to gather all responsive records. The Party receiving the request should work with its own public records staff (if any) to describe the request with sufficient specificity to allow the Administrative Agency to identify and provide the records being sought. If any clarification of the request is required, the Party receiving the request will obtain that clarification from the requester. All communication with the requester will be by the Party to whom the request was submitted.~~

~~In consultation with the Administering Agency, it will be the responsibility of the Party to whom the request for records was made to estimate the time it will need to produce responsive records, determine which records are responsive to the request, and address any redactions permitted by law. The Party that receives the request will bear the responsibility of complying with the Public Records Act in relation to its public records.~~

~~Nothing in this Section is intended to require a Party to collect or produce records that are not prepared, owned, used, or retained by that Party as contemplated by the Public Records Act.~~

17. INDEMNIFICATION AND HOLD HARMLESS.

a. Each Party will indemnify, defend and hold other Parties (including without limitation the Party serving as, and acting in its capacity as, SSHAP's Administering Agency), their officers, officials, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Party's wrongful acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries or damages are caused by another Party. If there is any recovery under this Section, the Party responsible for any wrongful acts or omissions will pay any judgment or lien arising from the acts or omissions, including all costs and other Parties' reasonable attorney's fees. If more than one Party is held to be at fault, the obligation to indemnify and to pay costs and attorney's fees, will be only to the extent of the percentage of fault allocated to each respective Party by a final judgment of the court.

b. If a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a Party (including without limitation the Party serving as, and acting in its capacity as, SSHAP's Administering Agency), its officers, officials, employees, and volunteers, the Party's liability hereunder will be only to the extent of the Party's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Party's waiver of immunity under Industrial Insurance Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this Section will survive the expiration or termination of this Agreement.

c. Each Party (including without limitation the Party serving as, and acting in its capacity as, SSHAP's Administering Agency) will give the other Parties proper notice of any claim or suit coming within the purview of these indemnities.

18. INSURANCE. The Executive Board, SSHAP Executive Manager and the Administering Agency will take such steps as are reasonably practicable to minimize the liability of the Parties associated with their participation in this Agreement, including but not limited to the utilization of sound business practice. The Executive Board will determine which, if any, insurance policies

may be reasonably practicably acquired to cover the operations of SSHA³P and the activities of the Parties pursuant to this Agreement (which may include general liability, errors and omissions, fiduciary, crime and fidelity insurance), and will direct the acquisition of same.

19. AMENDMENTS. Any amendments to this Agreement must be in writing. This Agreement may be amended upon approval of ~~at least two-thirds of~~ the legislative bodies of all Parties to this Agreement, evidenced by the authorized signatures of those Parties as of the effective date of the amendment. ~~However, any amendment to this Agreement affecting the terms and conditions of membership on the Executive Board, powers of the Executive Board, voting rights of Executive Board members, Party contribution responsibilities, hold harmless and indemnification requirements, provisions regarding duration, termination or withdrawal, or the conditions of this Section will require consent of the legislative authorities of all Parties.~~ This Section will not be construed to require amendment of this Agreement for the addition of a new Party contemplated under Section 20 or for any related revision to Executive Board membership authorized in Section 5(a) or Advisory Board membership in Section 8(b). The Executive Board will review this Agreement, no less than every five years, to determine if the purposes of SSHA³P are being achieved and if any amendments or modifications to the Agreement are needed.

20. ADDITIONAL PARTIES. Municipalities, local governments, tribes, and public agencies within the SSHA³P Area of Activity may, on execution of the Agreement and approval of the budget and work plan by its legislative body, become a Party to this Agreement on affirmative vote of at least fifty percent of the Executive Board. The Executive Board will determine by a vote of at least fifty percent of its membership what, if any, funding obligations the additional Party will commit to as a condition of becoming a Party to this Agreement.

21. SEVERABILITY. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Agreement, will not affect the validity of the remaining provisions of the Agreement.

22. CONFLICT RESOLUTION. Whenever any dispute arises between the Parties or between a Party or Parties, the Executive Board, or the Administering Agency (referred to collectively in this Section as the "Parties") under this Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute in good faith by meeting, as soon as

feasible. The meeting will include the Chair of the Executive Board, the SSHA³P Executive Manager, and the representative(s) of the Parties involved in the dispute. If the parties do not come to an agreement on the dispute, any party may pursue mediation through a process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations. The mediator(s) will be individuals skilled in the legal and business aspects of the subject matter of this Agreement. The parties to the dispute will share equally the costs of mediation and assume their own costs.

23. SURVIVABILITY. Notwithstanding any provision in this Agreement to the contrary, the provisions of Section 10 (Agreement Duration), Section 11 (Termination of Agreement), Section 12 (Withdrawal), Section 16 (Public Records Requests), and Section 17 (Indemnification and Hold Harmless) will remain operative and in full force and effect, regardless of the withdrawal or termination of any Party or the termination of this Agreement.

24. WAIVER. No term or provision of this Agreement will be deemed waived and no breach excused unless that waiver or consent is in writing and signed by the Party claimed to have waived or consented.

25. SUBSEQUENT BREACH. Waiver of any default will not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement will not be deemed to be a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval of all Parties.

26. NOTICE. Any notice to the Executive Board will be in writing and will be addressed to the Chair of the Executive Board and to the SSHA³P Executive Manager. In the absence of a SSHA³P Executive Manager, notice will be given to the chief executive officer of the Administering Agency. Any notice to an Officer or Party will be sent, to the address specified by the chief executive officer of the Party.

27. ASSIGNMENT. No Party may sell, transfer or assign any of its rights or benefits under this Agreement without Executive Board approval.

28. APPLICABLE LAW AND VENUE. This Agreement and any rights, remedies, or obligations provided for in this Agreement will be governed, construed, and enforced in accordance with the substantive and procedural laws of the State. The Parties agree

that the venue for any legal action under this Agreement is in the County in which a project is located, provided that the venue for any legal action against Pierce County may be filed in accordance with RCW 36.01.050.

29. RETAINED RESPONSIBILITY AND AUTHORITY. Parties retain the responsibility and authority for managing and maintaining their own internal systems and programs related to affordable/attainable housing activities.

30. INDEPENDENT CONTRACTORS. Each Party to this Agreement is an independent contractor with respect to the subject matter of this Agreement. No joint venture or partnership is formed as a result of this Agreement.

Nothing in this Agreement will make any employee of one Party an employee of another party for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded by virtue of their employment. No Party assumes any responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of any other Party's employees. No employees or agents of one Party will be deemed, or represent themselves to be, employees of another Party.

31. NO THIRD PARTY BENEFICIARIES. This Agreement is for the benefit of the Parties only, and no third party will have any rights under this agreement.

32. NONDISCRIMINATION. The Parties will comply with the nondiscrimination requirements of applicable federal, state and local statutes and regulations.

33. COUNTERPARTS. This Agreement may be signed in counterparts and, if so signed, will be deemed one integrated Agreement. Parties will submit copies of signed Agreements to the Administering Agency, or to Pierce County before an Administering Agency is selected.

34. FILING AND EFFECTIVE DATE; PRIOR AGREEMENTS. This Agreement will become effective (Date of Execution), subject to its approval by the legislative bodies of all jurisdictions who are members of SSHAP as of (Date of Execution), and, pursuant to RCW 39.34.040, upon recording this Agreement or posting this Agreement on a Party's web site or other electronically retrievable public source. Although this Agreement may be approved and signed by a Party after the Agreement's effective date, all acts

consistent with the authority of this Agreement that occur on or after , (Date of Execution), are hereby ratified and affirmed, and the terms of this Agreement will be deemed to have applied.

(Signature Page Follows)

Approved and executed this _____ day of _____, 2019.

Name of Party: _____ Approved as to form

By: _____ City Attorney
Its: _____

Exhibit A – SSHA³P Area of Activity (Map)

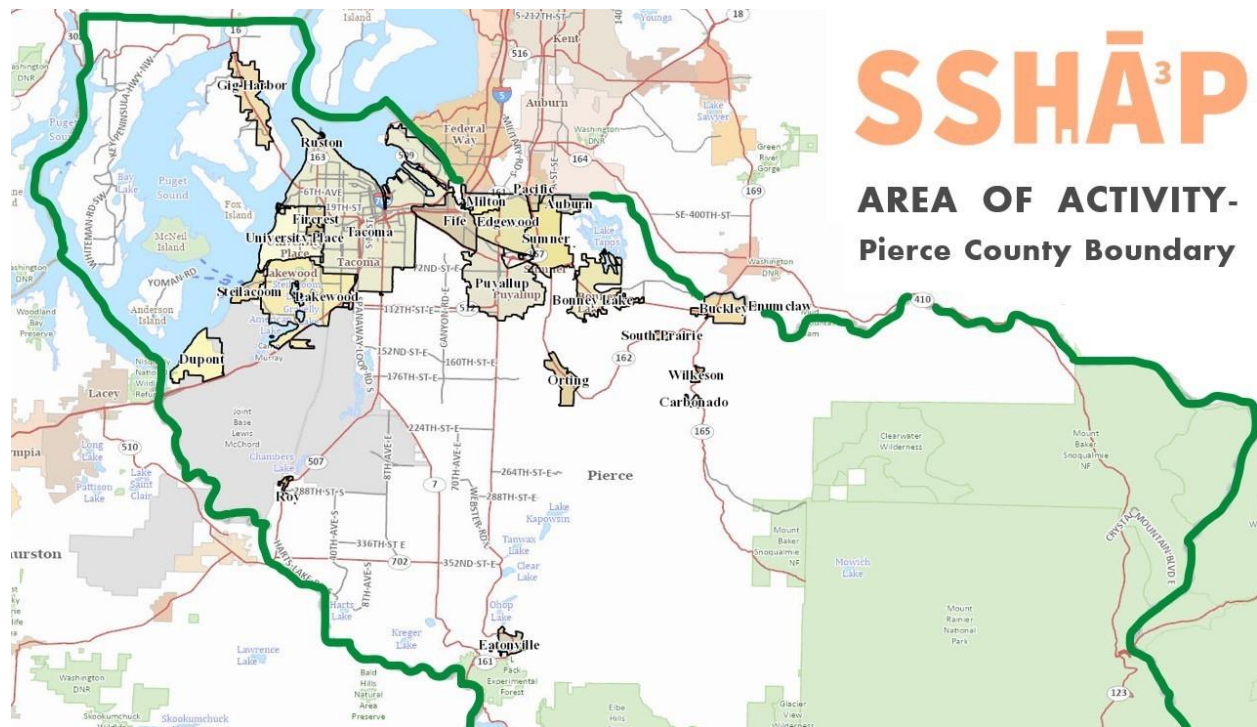


EXHIBIT B – SSHA³P Budgets for First 2.5 Years

NOTE: The following budgets are draft and won't be finalized until the final number of member governments are identified. The numbers may also change depending the amount of outside revenue raised.

The following provides draft budgets for years 1 (6 months of operations) 2 and 3. There are two scenarios: one in which ten governments participate and the other in which 16 governments participate.

DRAFT BUDGET PROPOSAL (10 Governments)**YEAR 1 (2021) - 1 FTE****Funding for 6 Months Operations****Annual Expense Budget**

Full-time manager with salary/taxes/benefits	\$	154,000
Administrative & policy support with salary/taxes/benefits (3 months)	\$	-
Direct Expenses - travel, phone, postage	\$	12,000
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	193,000
10% Overhead/Administration Fee	\$	19,300
TOTAL	\$	212,300
Cost for 6 months of Operations:	\$	106,150

Revenue Budget

Outside sources* (Philanthropy, aligned organizations)	\$	7,500
Office Space (in-kind donation) [Pro-rated]	\$	6,000
Shared among participating governments (see below)	\$	92,650
TOTAL	\$	106,150

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 2,250
Fife	10,360	1%	\$ 2,250
Gig Harbor	11,490	1%	\$ 2,250
Lakewood	60,330	7%	\$ 8,500
Puyallup	43,040	5%	\$ 6,500
Puyallup Tribe	6,000	1%	\$ 1,500
Steilacoom	6,555	1%	\$ 1,500
Sumner	10,500	1%	\$ 2,250
Tacoma	214,700	27%	\$ 22,000
Unincorporated Pierce Co	436,840	54%	\$ 46,000
TOTAL	809,865		\$ 95,000

YEAR 2 (2022) - 1.5 FTE
10 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 2nd year	\$	159,390
Administrative & policy support with salary/taxes/benefits/inflation 2nd yr	\$	67,636
Direct Expenses - travel, phone, postage	\$	12,420
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	266,446
10% Overhead/Administration Fee	\$	26,645
TOTAL	\$	293,090

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	266,090
TOTAL	\$	293,090

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 5,250
Fife	10,360	1%	\$ 5,250
Gig Harbor	11,490	1%	\$ 5,250
Lakewood	60,330	7%	\$ 22,000
Puyallup	43,040	5%	\$ 15,500
Puyallup Tribe	6,000	1%	\$ 4,250
Steilacoom	6,555	1%	\$ 4,250
Sumner	10,500	1%	\$ 5,250
Tacoma	214,700	27%	\$ 66,000
Unincorporated Pierce Co	436,840	54%	\$ 134,000
TOTAL	809,865		\$ 267,000

YEAR 3 (2023) - 1.5 FTE
10 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 3rd year	\$	164,969
Administrative & policy support with salary/taxes/benefits/inflation 3rd yr	\$	70,003
Direct Expenses - travel, phone, postage	\$	12,855
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	274,826
10% Overhead/Administration Fee	\$	27,483
TOTAL	\$	302,309

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	275,309
TOTAL	\$	302,309

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 5,434
Fife	10,360	1%	\$ 5,434
Gig Harbor	11,490	1%	\$ 5,434
Lakewood	60,330	7%	\$ 22,770
Puyallup	43,040	5%	\$ 16,043
Puyallup Tribe	6,000	1%	\$ 4,399
Steilacoom	6,555	1%	\$ 4,399
Sumner	10,500	1%	\$ 5,434
Tacoma	214,700	27%	\$ 68,310
Unincorporated Pierce Co	436,840	54%	\$ 138,690
TOTAL	809,865		\$ 276,345

DRAFT BUDGET PROPOSAL (16 Governments)**YEAR 1 (2021) - 1 FTE****Funding for 6 Months Operations****Annual Expense Budget**

Full-time manager with salary/taxes/benefits	\$	154,000
Administrative & policy support with salary/taxes/benefits (3 months)	\$	-
Direct Expenses - travel, phone, postage	\$	12,000
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	193,000
10% Overhead/Administration Fee	\$	19,300
TOTAL	\$	212,300
Cost for 6 months of Operations:	\$	106,150

Revenue Budget

Outside sources* (Philanthropy, aligned organizations)	\$	7,500
Office Space (in-kind donation) [Pro-rated]	\$	6,000
Shared among participating governments (see below)	\$	92,650
TOTAL	\$	106,150

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 2,000
Dupont	9,605	1%	\$ 2,000
Edgewood	13,000	1%	\$ 2,000
Fife	10,360	1%	\$ 2,000
Fircrest	6,860	1%	\$ 2,000
Gig Harbor	11,490	1%	\$ 2,000
Lakewood	60,330	7%	\$ 7,000
Milton	6,845	1%	\$ 2,000
Orting	8,675	1%	\$ 2,000
Puyallup	43,040	5%	\$ 5,000
Puyallup Tribe	6,000	1%	\$ 1,000
Steilacoom	6,555	1%	\$ 1,000
Sumner	10,500	1%	\$ 2,000
Tacoma	214,700	24%	\$ 20,000
University Place	33,730	4%	\$ 5,000
Unincorporated Pierce Co	436,840	49%	\$ 41,000
TOTAL	888,580		\$ 98,000

YEAR 2 (2022) - 1.5 FTE
16 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 2nd year	\$	159,390
Administrative & policy support with salary/taxes/benefits/inflation for 2nd year	\$	67,636
Direct Expenses - travel, phone, postage	\$	12,420
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	266,446
10% Overhead/Administration Fee	\$	26,645
TOTAL	\$	293,090

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	266,090
TOTAL	\$	293,090

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by population size
Auburn	10,050	1%	\$ 5,000
Dupont	9,605	1%	\$ 5,000
Edgewood	13,000	1%	\$ 5,000
Fife	10,360	1%	\$ 5,000
Fircrest	6,860	1%	\$ 3,000
Gig Harbor	11,490	1%	\$ 5,000
Lakewood	60,330	7%	\$ 20,000
Milton	6,845	1%	\$ 3,000
Orting	8,675	1%	\$ 5,000
Puyallup	43,040	5%	\$ 12,000
Puyallup Tribe	6,000	1%	\$ 3,000
Steilacoom	6,555	1%	\$ 3,000
Sumner	10,500	1%	\$ 5,000
Tacoma	214,700	24%	\$ 60,000
University Place	33,730	4%	\$ 12,000
Unincorporated Pierce Co	436,840	49%	\$ 120,000
TOTAL	888,580		\$ 271,000

YEAR 3 (2023) - 1.5 FTE
16 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 3rd year	\$	164,969
Administrative & policy support with salary/taxes/benefits/inflation for 3rd year	\$	70,003
Direct Expenses - travel, phone, postage	\$	12,855
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	274,826
10% Overhead/Administration Fee	\$	27,483
TOTAL	\$	302,309

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	275,309
TOTAL	\$	302,309

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by population size
Auburn	10,050	1%	\$ 5,175
Dupont	9,605	1%	\$ 5,175
Edgewood	13,000	1%	\$ 5,175
Fife	10,360	1%	\$ 5,175
Fircrest	6,860	1%	\$ 3,105
Gig Harbor	11,490	1%	\$ 5,175
Lakewood	60,330	7%	\$ 20,700
Milton	6,845	1%	\$ 3,105
Orting	8,675	1%	\$ 5,175
Puyallup	43,040	5%	\$ 12,420
Puyallup Tribe	6,000	1%	\$ 3,105
Steilacoom	6,555	1%	\$ 3,105
Sumner	10,500	1%	\$ 5,175
Tacoma	214,700	24%	\$ 62,100
University Place	33,730	4%	\$ 12,420
Unincorporated Pierce Co	436,840	49%	\$ 124,200
TOTAL	888,580		\$ 280,485

**Intergovernmental Agreement for SSHA³P
South Sound Housing Affordability Partners**

(Effective Date: **Date of Execution**)

This Intergovernmental Agreement ("Agreement") is entered into by and between the Cities of **??**, Pierce County (each municipal corporations and political subdivisions of the State of Washington), and the Puyallup Tribe of Indians, a **federally-recognized Indian tribe** (the Tribe) Individually each member of SSHA³P is a "Party" and collectively, the "Parties". This Agreement relates to the creation and operation of a joint undertaking among the Parties hereto to be known as the South Sound Housing Affordability Partners ("SSHA³P"). This Agreement is made pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, and has been authorized by the legislative body of each government.

WHEREAS, the recent increases in the cost to purchase or rent housing in Pierce County has resulted in more than one-third of all households in the county considered cost-burdened, paying more than 30% of their income for housing costs; and

WHEREAS, in the past decade increases in Pierce County median home sales prices (108%) and rental rates (78%) have dramatically outpaced the increases in median household incomes (10%); and

WHEREAS, the recent global pandemic has placed new pressures on the housing market, with the economic downturn resulting in many households unable to afford rent or mortgage payments, anticipated increases in the number of evictions and foreclosures (including among those small rental property owners who have not been receiving rental payments), and at the same time increased demand for purchasing homes due to historically low interest rates and the large increase in the number of those now working remotely; and

WHEREAS, the Parties have a common goal to ensure the availability of housing that meets the needs of residents and workers at all income levels in Pierce County, including but not limited to families, veterans, and seniors; and

WHEREAS, the Parties share a common goal to eliminate housing inequities for all races, ethnicities and other vulnerable or marginalized communities and geographic locations in Pierce County; and

WHEREAS, the Parties wish to provide a sound base of housing policies and programs in Pierce County and to complement the efforts of local governments and existing public and private organizations to address housing needs in Pierce County; and

WHEREAS, the Parties wish to act cooperatively to formulate policies that create access to affordable/attainable housing policies and strategies that address housing stability by helping homeowners and renters stay in their homes, ensure an ample housing supply that remains affordable for all income levels, provide incentives for affordable/attainable housing for lower and middle income households, foster efforts to preserve and provide access to affordable/attainable housing by combining public funding with private-sector resources, and support implementation of the goals of the Washington State (the "State") Growth Management Act, related countywide planning policies, and other local policies and programs relating to providing access to affordable and attainable housing, and to do so efficiently and expeditiously; and

WHEREAS, the Parties have determined that the most efficient and effective way for the Parties to address access to affordable and attainable housing needs in Pierce County is through cooperative action and pooling their resources to create a larger scale of activities than any one Party could accomplish on their own, achieve economies of scale, and leverage other public and private resources; and

WHEREAS, the intent of this cooperative undertaking is not to duplicate efforts of non-profit corporations and other entities already providing affordable/attainable-housing-related services; and

WHEREAS, a cooperative work plan with a primary focus on the production and preservation of affordable/attainable housing, is needed because the lack of access to affordable/attainable housing is one of the key contributors to homelessness;

WHEREAS, the Parties are each empowered to promote the public health, safety, and welfare, pursuant to RCW 36.32.120(7), RCW 35.22.195, and RCW 35A.11.020; and

WHEREAS, the parties are authorized by Revised Code of Washington 39.34 to enter into agreements for the joint exercise of governmental powers.

NOW, THEREFORE, the Parties agree to the above Recitals and the following terms and conditions:

1. DEFINITIONS. The following terms used in this Agreement are defined as follows:

a. *Administering Agency* - One or more of the Parties that will provide administrative support services on behalf of SSHAP. The role of the Administering Agency will be to serve as the fiscal agent for SSHAP, in accordance with the requirements of chapter 39.34 RCW, and provide space and administrative support for the SSHAP staff. These roles could be provided by one Party or the roles could be split and provided by two Parties.

b. *Advisory Board* - A board consisting of 15 to 20 community members and/or key stakeholders appointed by the Executive Board to provide advice and recommendations to the Executive Board on policy needs related to housing stability, program design and development, land and/or funding resource allocation for enhancing access to affordable/attainable housing projects, and other immediate affordable/attainable housing needs, and to provide public education and community outreach support.

c. *Area of Activity* - The area in Pierce County where SSHAP is expected to conduct its work, and where future expansion of SSHAP membership could occur, as further described in Exhibit A.

d. *Direct Service Housing* - Direct service housing programs may include but are not limited to relocation assistance programs, rent voucher and/or deposit loan programs.

e. *Executive Board* - The governing board for SSHAP comprised of members as provided herein, which will act on behalf of all Parties and as may be in the best interest of SSHAP in order to carry out the purposes of this Agreement.

f. *SSHAP Fund* - A fiduciary fund established by the Administering Agency, as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SSHAP Executive Board". Within the SSHAP Fund may be established various subfunds and/or subaccounts including but not limited to a "SSHAP Operating Account" and a "Housing Capital Funds Account".

i. *SSHAP Operating Account* - A subaccount or subfund created by the Administering Agency for the receipt of contributions from the Parties and other private or public

entities, for the purpose of paying for the operations of and supporting the SSHA³P annual budget.

ii. *Housing Capital Funds Account* - A subaccount or subfund established by the Administering Agency within the SSHA³P Fund for the purpose of administering the voluntary contributions of Parties, or other public or private entities, to affordable/attainable housing projects and programs, to be known as the SSHA³P Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency.

iii. *Individual Account(s)* - One or more subaccounts or subfunds established within the Housing Capital Funds Account for each Party to this Agreement that chooses to contribute to the Housing Capital Funds Account. Contributions to an Individual Account from a Party may be released only upon, and in accordance with, the written direction of that Party.

g. *SSHA³P Executive Manager* - The managing lead staff for SSHA³P will be responsible for carrying out the SSHA³P annual work plan, as developed by the Executive Board, and other terms of this Agreement. The Executive Manager will be an employee of the Administering Agency subject to the human resource rules and requirements of that agency.

h. *SSHA³P Staff* - The full-time and part-time staff hired or assigned by the Administering Agency with the responsibility for carrying out the SSHA³P work plan, under the direction of the SSHA³P Executive Manager.

2. PURPOSE. All Parties to this Agreement have responsibility for local, regional and tribal planning for the provision of housing affordable to residents that work and/or live in Pierce County. The Parties agree to act cooperatively to formulate housing policies that address access to affordable/attainable housing, housing stability and to foster efforts to preserve and create affordable/attainable housing by combining public funding or other resources with private-sector resources. In order to accomplish the purposes of this Agreement, the Parties agree to create a joint, voluntary and cooperative undertaking responsible for administering the activities described herein. The cooperative undertaking among the Parties will be called the South Sound Housing Affordability Partners ("SSHA³P"). The Parties further intend that this Agreement serve as a framework for all participating municipalities within the broader SSHA³P Area of Activity to do the aforementioned work. It is the intent of the

Parties to create a collaboration that involves members representing broad geographic diversity across the county, governments of different sizes, and regional perspectives about affordable, attainable and accessible housing needs and solutions. The Parties encourage other cities and tribes and other public and private entities in Pierce County within the SSHAP Area of Activity to join the Parties in this endeavor.

3. STRUCTURE; CREATION OF JOINT BOARD. By executing this Agreement, the Parties hereto create a joint board pursuant to RCW 39.34.030(4) to govern SSHAP. The joint board created by this Agreement will be called the "Executive Board" and will be composed of members as provided for in Section 5.a of this Agreement. The Joint Board created in this Agreement is not a separate legal or administrative entity within the meaning of RCW 39.34.030(3). The Executive Board will act on behalf of all Parties and as may be in the best interest of SSHAP in order to carry out the purposes of this Agreement. The Executive Board is not authorized to own assets or have employees.

4. RESPONSIBILITIES AND AUTHORITY. In order to carry out the purposes of SSHAP and this Agreement, the Executive Board will have the responsibility and authority to:

a. Create and implement an annual work plan approved by the Executive Board to guide the work of SSHAP Staff. The work plan will include activities that may benefit multiple participating jurisdictions or individual jurisdictions. The work plan activities will be consistent with the purpose described in this Agreement. The Executive Board will determine how it will track, monitor and report on progress on the work plan and the timeliness of deliverables. For purposes of accountability and transparency, this will include methods for timely reporting to members and to the public.

b. Make decisions regarding the allocation of public and private funding deposited into the SSHAP Housing Capital Funds Account for the purpose of enhancing access to affordable/attainable housing.

c. Recommend to the Administering Agency to enter into agreements with third parties for the use and application of public and private funds contributed by individual Parties to the SSHAP Fund, including the Housing Capital Funds Account established in Section 14, under terms and conditions as may be agreed by the individual contributing Parties, as further described in Section 14. At least annually, report to the Parties on the geographic

distribution of all housing capital funds as recommended by the SSHA³P Executive Board.

d. Guide the SSHA³P Staff in the performance of the following duties:

- i. Provide recommendations to the Parties regarding local and regional policies to improve access to affordable/attainable housing. SSHA³P Staff may assist the Parties in developing strategies and programs to achieve State Growth Management Act housing goals, growth targets, local Comprehensive Plan Housing Element goals, and local housing strategy plans, as appropriate.
- ii. SSHA³P Staff may provide technical assistance as requested to any Party considering adoption of land use incentives or requirements, or programs to enhance access to affordable/ attainable housing. SSHA³P Staff may research model programs, develop draft legislation, prepare briefing materials and make presentations to planning commissions and councils on request by a Party. SSHA³P Staff may assist Parties in developing strategies and programs to implement county-wide affordable/attainable housing policies to meet State Growth Management Act objectives, growth targets, local Comprehensive Plan Housing Element goals, and local housing strategy plans for an equitable and rational distribution of low- and moderate-income housing.
- iii. Facilitate cooperation between the private and public sector with regard to the provision of and access to affordable/attainable housing. SSHA³P Staff may communicate directly with private developers, financial institutions, non-profit corporations and other public entities to assist in the implementation of affordable/attainable housing projects. SSHA³P Staff may work directly with any Party to provide technical assistance with regard to the public funding of affordable/attainable housing projects and the implementation of affordable/attainable housing regulatory agreements for private developments.

- iv. SSHA³P Staff may also identify public and private sites that are available for affordable/attainable housing and develop housing alternatives for such sites.
- v. After the Housing Capital Fund is created, develop standard regulatory agreements acceptable to private and public financial institutions to facilitate the availability of funding for private and public projects containing affordable/attainable housing, and other documents and procedures as appropriate.
- vi. Provide other technical advice to any Party upon request and, as staff capacity allows, enter into agreements to provide technical assistance to other public entities on a reimbursable basis.
- vii. Provide support and educational activities and to monitor legislative and regulatory activities and proposed policy changes related to enhancing access to affordable/attainable housing at the county, state and federal levels. Ensure that the Parties to this Agreement have a strong Pierce County voice in federal, state and regional decision making regarding affordable/attainable housing programs, policy and funding. All lobbying activities will comply with state laws and regulations.
- viii. After the Housing Capital Fund is created, develop and carry out procedures for monitoring of affordable/attainable units and to administer direct service housing programs on behalf of any Party.
- ix. Work directly with other public and private entities for the development of affordable/attainable housing policies and encourage the provision and preservation of affordable/attainable housing.
- x. Work with the Advisory Board appointed under this Agreement and Pierce County agencies and organizations working on regional housing stability and access to affordable and attainable housing, identify trends and promising practices, and mobilize those agencies and organizations to

support Pierce County positions in regional, state and federal decision-making forums.

- xi. Support public and private fundraising efforts of public and private entities (including non-profit corporations) to raise funds to carry out the purposes of this Agreement. Enter into agreements with those entities for the use of such funds in order to carry out the purposes of this Agreement.
- xii. As recommended by the Executive Board, accept public and private funding, receive and invest those funds in accordance with State and Federal law, and take other appropriate and necessary action to carry out the purposes of this Agreement.

5. EXECUTIVE BOARD.

a. Membership. SSHAP³ will be governed by an Executive Board composed of individuals who represent the perspectives of their governments.

- For cities/towns: Members will either be Mayors or, as designated by the Mayor, Council members or a City Manager/Administrator.
- For tribes: Members will be the Tribal Council Chair or a member of the Tribal Council as designated by the Chair.
- For the county: Members will be the County Executive, and the County Council Chair (or their designee).

Each Party will have one vote on the Executive Board. For purposes of voting, the County shall be considered an individual Party and entitled to one vote. The vote will be split equally between the County's two Executive Board members.

Municipalities, local governments, tribes and public agencies within the Area of Activity may become Parties to this Agreement with representation on the Executive Board described in this Section 5, upon satisfaction of the requirements of Section 20.

The Executive Board will administer this cooperative undertaking under the terms of this Agreement and under any procedures adopted by the Executive Board.

b. Officers. The Chair and Vice Chair of the Executive Board will be elected by the members of the Board from the Board membership. The Chair, or in their absence the Vice Chair, will preside over all meetings of the Executive Board; and will, in the

absence of an Executive Manager provided for in Section 6 of this Agreement, process issues, organize meetings and provide for administrative support as required by the Executive Board. The Chair will serve a one-year term, but may be reelected by the Executive Board for one additional term.

c. Alternate Member. Each member of the Executive Board may designate one alternate member who will serve in the place of the member on the Executive Board during the member's absence from a meeting. Notice of the designation will be provided to the Chair of the Executive Board. An alternate member may only vote on behalf of the Party if the Chair has received written notice of the alternate's appointment. It is not intended that alternates will serve on the Board in an ongoing capacity.

d. Powers. It is intended that the Executive Board will serve as a decision-making body for SSHAP. The Executive Board will have the power to:

- i. develop and recommend an annual budget and annual work plan for SSHAP and oversee the management of the SSHAP Fund;
- ii. adopt procedures for the administration of SSHAP (including securing any necessary legal counsel as needed) and for the conduct of meetings;
- iii. make recommendations to the Parties concerning planning, policy, programs and the funding of projects to enhance access to affordable/attainable housing;
- iv. establish policies for the expenditure of SSHAP budgeted items;
- v. work with the designated Administering Agency (see Section 6) to carry out the terms of this Agreement;
- vi. work with the Administering Agency to establish a special fund within the Administering Agency as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SSHAP Executive Board" ("SSHAP Fund") within which Fund may be established various accounts and subaccounts including but not limited to a "SSHAP Operating Account" (into which will be deposited funding for the SSHAP operating budget) and a "Housing Capital Funds Account";
- vii. hold regular meetings on those dates and at those places as the Executive Board may designate;
- viii. recommend that the Administering Agency enter into contracts and agreements for the provision of personnel and other necessary services to SSHAP,

including accounting and legal services and the purchase of insurance, and advise the Administering Agency to execute such other contracts, agreements or other legal documents necessary with public and private entities for SSHA³P to carry out its purposes;

- ix. work with the Administering Agency to: establish the responsibilities for the SSHA³P Executive Manager, conduct the hiring process and performance review for that position and direct and oversee the activities of the SSHA³P Executive Manager;
- x. create a recruitment process and appoint members of the Advisory Board;
- xi. assist with incorporating and/or work with a non-profit corporation to accept grants, donations and other funds on behalf of SSHA³P and recommend the Administering Agency to enter into contracts or other agreements with such agency for the use of those funds to carry out the purposes of this Agreement; and
- xii. take whatever other action is necessary to carry out the purposes of this Agreement.

6. ADMINISTRATION AND OVERSIGHT. The Executive Board will have final decision-making authority on behalf of SSHA³P over all legislative priorities and administrative matters within the scope of this Agreement. The Executive Board may delegate responsibility for general oversight of the operations of SSHA³P to an Executive Manager. The SSHA³P Executive Manager will submit quarterly budget performance and progress reports on the status of the work program elements to the Executive Board and annually to the legislative body of each Party. The reports and their contents will be in a form acceptable to the Executive Board.

The Executive Board will, by two-thirds supermajority vote, designate one or more of the Parties to serve as the Administering Agency, which will provide administrative support services on behalf of SSHA³P. To change the Administering Agency, the Executive Board will, by two-thirds supermajority vote, designate one or more of the Parties to serve as the Administering Agency. Each Party that serves in the capacity of Administering Agency hereby agrees to comply with the terms of this Agreement applicable to the Administering Agency in order to permit SSHA³P to carry out its purposes. SSHA³P will be staffed with personnel funded by the Parties and/or independent contractors contracting with the Administering Agency on behalf of SSHA³P.

Any Party providing personnel to SSHA³P will remain solely responsible for the continued payment of all compensation and benefits to those personnel as well as for any worker's compensation claims. All Parties will cooperate fully in assisting SSHA³P to provide the services authorized in this Agreement.

7. MEETINGS OF EXECUTIVE BOARD.

a. Frequency. The Executive Board will meet as often as it deems necessary, but not less often than quarterly. Executive Board meetings will comply with the requirements of the State Open Public Meetings Act (OPMA).

b. Quorum. A quorum at any meeting of the Executive Board will consist of the Board members (or alternates) who represent a simple majority of the Board's membership.

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Executive Board requires an affirmative vote by a majority of the Board members present at a meeting, provided however, that a supermajority (two-thirds of all Board members) will be required to change the Administering Agency, or to modify the proposed contribution methodology for dues and assessments (see Section 15). Official action by the Executive Board may be conducted by motion, resolution, declaration, or such means as determined to be necessary by the Executive Board in their procedures for conducting meetings (referred to in 5.d above), provided however, changing the Administering Agency or Agencies shall be completed by resolution. All official action of the Executive Board shall be recorded in its official minutes. Each Executive Board member, or his or her alternate, will have one vote on any proposed action; except that shared member voting shall be in accordance with the Executive Board's approval under Section 5 (a). Proxy voting will not be allowed. To the extent applicable to meetings of the Executive Board, the Executive Board will comply with applicable requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

8. ADVISORY BOARD.

a. Purpose and Role. The Executive Board will create an Advisory Board to provide advice and recommendations on the work of SSHA³P. Specific objectives shall be to advise the Executive Board regarding: assessment of affordable/attainable housing needs for different populations in Pierce County; the development of policies and/or funding resources to meet those needs; the priorities for allocation of future SSHA³P capital resources to

create or preserve access to affordable/attainable housing; input on program design and development related to housing affordability and stability; suggested approaches to federal, state and regional legislative advocacy; and providing support for public education and community outreach activities. The Advisory Board will be created before the end of the first year of SSHAP³ operations (with the start of the year defined as the hiring of the SSHAP³ Executive Manager).

b. Membership. The Advisory Board will consist of not more than twenty (20) and not less than fifteen (15) community members and/or key stakeholders. The Executive Board will appoint members to the Advisory Board. Appointed members must have knowledge and understanding of affordable/attainable housing and be committed to the furtherance of improving access to affordable/attainable housing for all in Pierce County. Membership should reflect a geographic diversity of Pierce County cities, towns, tribes and unincorporated areas. Membership will reflect one-third consumers of affordable/attainable housing (rental and ownership housing), one-third developers, designers, planners, managers of affordable/attainable housing, and one-third advocates and advisors who work on land use and housing issues.

c. Terms. Appointments will be for a three-year term. When the Advisory Board is created, the initial terms of members shall be staggered as follows:

- One-third shall be appointed for a one-year term
- One-third shall be appointed for a two-year term
- One-third shall be appointed for a three-year term

The membership categories of the Advisory Board, described in section 8.b above, will be evenly distributed across the three initial terms.

d. Recruitment and Termination. The Executive Board will adopt procedures for the recruiting, convening and administration of the Advisory Board. A member may be removed from the Advisory Board by the Executive Board with or without cause on a majority vote of membership of the Executive Board.

e. Officers. When the Advisory Board has been duly created, the members shall elect a Chair and Vice Chair, who will be responsible for working with the SSHAP³ Executive Manager to set agendas and facilitate meetings.

f. Conflict of Interest. Members of the Advisory Board shall comply with Ch. 42.23 RCW, the Code of Ethics for Municipal Officers. It is the responsibility of each Board Member to declare

potential conflicts of interest. The Chair shall be responsible for mediating differences of opinion on these matters as they may arise.

9. MEETINGS OF ADVISORY BOARD.

a. Frequency. The Advisory Board will meet as often as it deems necessary, but not less often than quarterly.

b. Quorum. A quorum at any meeting of the Advisory Board will consist of the Board members who represent a simple majority of the Board's membership. Advisory Board members may participate in any meeting by phone and/or video conferencing for all purposes, including but not limited to voting and establishing a quorum.

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Advisory Board requires an affirmative vote by a majority of those members attending a Board meeting where a quorum exists. Official action by the Advisory Board may be conducted by motion, resolution, declaration, or other means as determined to be necessary by the Advisory Board. Proxy voting is not allowed. To the extent applicable to meetings of the Advisory Board, the Advisory Board will comply with applicable requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

10. AGREEMENT DURATION. This Agreement will be in full force and effect for a period commencing as provided in Section 34, and ending December 31, 2023. This Agreement will automatically renew for successive two-year terms, unless sooner terminated under the provisions of this Agreement.

11. TERMINATION OF AGREEMENT. This Agreement may be terminated at any time by affirmative vote of a majority of the legislative bodies of the Parties to this Agreement. Parties may consider multiple factors/reasons for termination, including but not limited to the timeliness of work plan deliverables and the sufficiency of dues to support the work plan and SSHA³P staff.

Upon termination of this Agreement, all property acquired during the life of the Agreement will be disposed of in the following manner:

a. all property contributed without charge by any Party will revert to the contributing Party;

b. all property purchased on behalf of SSHA³P after the effective date of this Agreement will be distributed to the Parties based on each Party's pro rata contribution to the overall budget at the time the property was purchased;

c. except as provided in Subsection d. below, all unexpended or reserve funds will be distributed to the Parties based on each Party's pro rata contribution to the overall budget in effect at the time the Agreement is terminated;

d. all uncommitted monies in the Housing Capital Funds Account will be distributed to the Parties by remitting the total uncommitted amounts remaining in each Party's Individual Account (as described in Section 14) to that Party; and

e. each Party that has funded a project through the Housing Capital Funds Account will be substituted for the Administering Agency with regard to all project financing documents, and the Administering Agency will be released from further obligations with respect thereto.

12. WITHDRAWAL. If a Party wishes to withdraw from participation in this Agreement, it may do so after the initial term if its Legislative Body first gives six months advance written notice to the Executive Board of its intention to withdraw, which notice will be due on or before June 30, 2023. If notice of an intent to withdraw is timely received, withdrawal will be effective as of 11:59 p.m. on December 31, 2023. The initial members of SSHA³P agree they will participate for at least through the first full term of the collaboration.

After December 31, 2023, an opportunity is provided once per year for a Party to withdraw from this Agreement. Under this provision, advance written notice must be provided from the Legislative Body of any Party to this agreement to the Executive Board on or before June 30, of its intention to withdraw from participation in the Agreement, effective as of 11:59 p.m. on December 31st of that current year.

Any Party withdrawing from this Agreement will remain legally and financially responsible for any obligation incurred by the Party pursuant to the terms of this Agreement, including but not limited to any project financing documents executed by the Administering Agency on behalf of that Party, during the time the withdrawing Party was a member of SSHA³P. A notice of withdrawal may be revoked by the Party that submitted the notice only by approval of a majority of the Executive Board to accept the revocation. Any

Party that provides written notice of its intent to withdraw may continue to vote on all matters before the Executive Board prior to the effective date of its withdrawal, except the budget and work plan for the following year.

13. BUDGET. The fiscal year for SSHA³P will be January 1 to December 31 of any year. The first year budget and anticipated second year budget for SSHA³P are attached to this Agreement as Exhibit B and incorporated herein by this reference. Approval of this Agreement by the legislative body of each Party includes approval of the SSHA³P budgets through the first full term of the agreement. For subsequent years, on or before July 1st of each year, a recommended operating budget for SSHA³P for the following budget year will be prepared, reviewed and recommended by the Executive Board and transmitted to each Party. The recommended operating budget will contain an itemization of all categories of budgeted expenses and will contain an itemization of the amount of each Party's contribution, including in-kind services, toward that budget. Contributions to the SSHA³P annual budget may also come from other public or private entities. The Executive Board will approve acceptance of those contributions.

a. No recommended budget will become effective until approved by the legislative body of each Party and adopted by the Executive Board, except for SSHA³P's first full term (2021, 2022 and 2023). Once the legislative body of each Party has approved its contribution to SSHA³P, either separately or through its budget process, and the SSHA³P budget has been adopted by the Executive Board, each Party will be obligated to make whatever contribution(s) is budgeted for that Party. If a Party does not approve the budget in a timely manner, the Executive Board may adopt the annual budget and work plan with a two-thirds majority vote.

b. Each Party's contribution(s) will be transmitted to SSHA³P on an annual basis no later than the end of the first quarter of each calendar year, unless otherwise provided in the budget document. The Administering Agency will submit invoices to each Party for their annual dues payments. Each Party will specify the amount of its contribution to be deposited by the Administering Agency into the SSHA³P Operating Account, as well as the amount, *if any*, to be deposited into the Party's Individual Account within the SSHA³P Housing Capital Funds Account established by Section 14.

c. If any Party is delinquent by more than three months in the payment of its approved operating budget contribution to

the SSHA³P Operating Account, that Party will not be entitled to vote on matters before the Executive Board until the delinquency has been paid. A Party's decision not to contribute funds to its Individual Account, or its delinquency in funding the same will not affect that Party's voting rights on the Executive Board.

14. HOUSING CAPITAL FUNDS ACCOUNT ESTABLISHED; PROCEDURES FOR ADMINISTERING HOUSING CAPITAL FUNDS ACCOUNT CONTRIBUTIONS. If authorized by resolution of the Executive Board, the Administering Agency may establish and maintain a subaccount or subfund within the SSHA³P Fund for the purpose of administering the contributions of Parties, or other public or private entities, to affordable/attainable housing projects and programs, to be known as the SSHA³P Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency as described in this Agreement.

a. Within the Housing Capital Funds Account, a sub-account or subfund will be established for each Party to this Agreement that chooses to contribute to the Housing Capital Funds Account. Such sub-accounts are collectively referred to as the "Individual Accounts." The Executive Board will work with the Administering Agency to create policies and procedures for the release of those funds.

b. A subaccount may be established within each Individual Account for each project or program funded in whole or part by a Party from its Individual Account. Such sub-accounts are referred to as "Project Accounts." The intent is to create a structure that enables each Party to easily track the use of their contributed funds.

c. The Administering Agency will maintain records sufficient to separately track the deposits, withdrawals and interest earnings, within each Individual Account and each Project Account, and will provide quarterly reports to all Parties as to the status of funds in each Individual Account and Project Account. The Administering Agency's responsibilities under this Section may be delegated to the SSHA³P Executive Manager to the extent consistent with applicable law and as the Administering Agency and Executive Board may agree.

d. Funds transmitted to SSHA³P for deposit in the Housing Capital Funds Account will be held by the Administering Agency on behalf of SSHA³P until directed for application by the contributing Party (as described in 14.a. above). Uncommitted funds in an Individual Account will be remitted to the contributing

Party within 45 days of receipt of written request from the Party signed by its chief executive officer, or upon the Party's withdrawal from SSHA³P in accordance with the terms of Section 12, or on the dissolution of SSHA³P per Section 11.

e. Funds held by the Administering Agency on behalf of SSHA³P will be subject to laws applicable to public funds, including but not limited to limitations on investments for public funds as provided in State law and the State constitutional limitations on the gifting of public funds. Investment earnings will be credited to each Individual Account and Subaccount on a pro rata basis.

f. The Executive Board will develop standard forms of approvals and agreements to be used in the application of funds contributed to the Housing Capital Funds Account (collectively referred to as "project financing documents"), consistent with the following goals and procedures:

- i. The SSHA³P Executive Board will authorize the application of specified amounts of Individual Account monies to projects or programs consistent with the purpose of the SSHA³P Capital Fund, and will authorize and recommend the SSHA³P Executive Manager, and the Administering Agency to take such actions as necessary to accomplish this. At least two weeks prior to the Executive Board action they will notify the individual parties whose funds will be used for such projects or programs of the various terms to accompany their authorizations, and will at a minimum include terms related to:
 1. amount of funds allocated;
 2. project description, including minimum affordability requirements, if any;
 3. nature of the funding commitment (loan, grant, or other);
 4. in the event the funding commitment is provided as a loan, the general repayment terms including but not limited to the term of the loan and applicable, interest rate(s); and
 5. a general description of the security interests, if any, to be recorded in favor of the Party.
- ii. For each individual housing project or program to be funded through the Housing Capital Funds Account, the developer, owner or administrator of such project or program (generally referred to as

the "developer"), will enter into the necessary set of agreements (project financing documents) with the Administering Agency. The project financing documents will specify that the Administering Agency is acting as administering agency on behalf of each Party that is providing Housing Capital Funds Account funding to the project or program pursuant to this Agreement and RCW 39.34.030(4), and will identify each participating funding Party. The project financing documents will be consistent with general forms of agreement approved by the Executive Board and the terms and conditions approved by the legislative bodies of the funding Parties. To the extent permitted by law, the project financing agreements will incorporate all terms and conditions relative to the use and (if applicable) repayment of such funds, and provide for transfer of the Housing Capital Funds Account monies from the funding Parties to the developer.

- iii. Funding contributions to, and repayments (if any) from, specific projects and programs will be recorded by the Administering Agency, including recording of monies deposited and withdrawn from each Party's Individual Account and Project Accounts. Repayments (if any) under any project financing agreement will be applied *pro rata* to the funding Parties' Individual Accounts based on the ratio of funding contributed to the project by each Party, unless the funding Parties otherwise agree.
- iv. Unless the Parties funding a project or program through the Housing Capital Funds Account otherwise agree, a default, termination or other action against a developer or other third party may be declared only after securing approval in writing of the chief executive officers of funding Parties which together have contributed not less than 51% of the total SSHAP member funding to the project. The Administering Agency will provide reasonable notice and information regarding the status of projects as necessary to each funding Party's chief executive officer to allow them to make a timely decision in this regard. Funding Parties not consenting to such default, termination or other action will be bound by the decision of the majority. All funding Parties will be obligated on

a pro rata basis (based on their contributions to the project) to pay to the Administering Agency its reasonable costs and expenses incurred as a result of declaring a default, terminating an agreement or taking other action against a developer or other third party. Any funds recovered through such enforcement proceedings will be allocated to the funding Parties Individual Accounts pro rata based on their respective funding contributions to a project.

- v. The Executive Board may from time to time authorize the Administering Agency to administer housing project agreements entered into before the effective date of this Agreement, upon terms consistent with this Agreement and subject to the consent of the Administering Agency and the Parties to such agreements.

15. DUES, ASSESSMENTS AND BUDGET AMENDMENTS. Contributions to the SSHA³P Operating fund will be based on groupings of like-sized cities (based on population), or whatever contribution methodology is approved by a two-thirds majority of the Executive Board. Funding for the activities of SSHA³P will be provided solely through the budgetary process. Unless otherwise specified in this Agreement, no dues, charges or assessments will be imposed or required of the Parties except upon unanimous vote of the membership of the Executive Board and ratification by the legislative body of each Party subject to the dues, charges or assessments. An approved budget (the overall revenues and expenditures) will not be modified until approved by the legislative body of each Party and finally adopted by the Executive Board. If a Party agrees to totally fund an additional task to the work program, not currently approved in the budget, the task may be added to the work plan and the budget amended to reflect the funding of the total cost of such task by the requesting Party, upon approval by a majority of the membership of the Executive Board without approval by the individual Parties. Notwithstanding the foregoing, contributions by a Party to its Individual Account within the Housing Capital Funds Account will be solely within the discretion of that Party and are not considered "dues or assessments."

16. PUBLIC RECORDS REQUESTS. Each party to this agreement shall be responsible for retaining and producing the records it creates, owns or uses, in accordance with applicable public records access and retention laws and regulations. Nothing in this Section

is intended to require a Party to collect or produce records that are not prepared, owned, used, or retained by that agency as defined by the Public Records Act (RCW 42.56), other than as provided for herein.

The Administering Agency shall be responsible for maintaining and storing, in compliance with the state Public Records Act (Chapter 42.56 RCW), those records of the Executive Board and Advisory Committee that are created by the Administering Agency in connection with this Agreement (SSHA³P Records). SSHA³P records may include, but are not limited to, Executive Board and Advisory Committee meeting agendas, meeting summaries, reports, plans, budgets, and other related documents. For purposes of the Public Records Act, the SSHA³P Executive Manager shall serve as the Public Records Officer with respect to requests for SSHA³P records and the Administering Agency shall be responsible for ensuring compliance with RCW 42.56.152 (Training-Public Records Officers). Upon receipt of a request for SSHA³P records, the SSHA³P Executive Manager, serving as the SSHA³P Public Records Officer, shall timely share the request with the Parties. In the event that the SSHA³P Executive Manager shares a request for SSHA³P records with the Parties, each party notified by the SSHA³P Executive Manager shall cooperate with the SSHA³P Executive Manager as requested to fulfill the request. Parties who receive requests for SSHA³P records or records related to SSHA³P are also encouraged, but not required, to share those with the SSHA³P Executive Manager.

Each party shall indemnify and hold the other party to this Agreement harmless for any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses including reasonable attorney's fees and costs arising from a public records require (collectively "Claims"), to the extent attributed to the indemnitor party's Fault. The term "Fault" as used herein shall have the same meaning as set forth in RCW 4.22.015. This obligation to indemnify and hold the other party harmless shall survive termination of this Agreement.

17. INDEMNIFICATION AND HOLD HARMLESS.

a. Each Party will indemnify, defend and hold other Parties (including without limitation the Party serving as, and acting in its capacity as, SSHA³P's Administering Agency), their officers, officials, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Party's wrongful acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries or damages are caused

by another Party. If there is any recovery under this Section, the Party responsible for any wrongful acts or omissions will pay any judgment or lien arising from the acts or omissions, including all costs and other Parties' reasonable attorney's fees. If more than one Party is held to be at fault, the obligation to indemnify and to pay costs and attorney's fees, will be only to the extent of the percentage of fault allocated to each respective Party by a final judgment of the court.

b. If a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a Party (including without limitation the Party serving as, and acting in its capacity as, SSHAP's Administering Agency), its officers, officials, employees, and volunteers, the Party's liability hereunder will be only to the extent of the Party's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Party's waiver of immunity under Industrial Insurance Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this Section will survive the expiration or termination of this Agreement.

c. Each Party (including without limitation the Party serving as, and acting in its capacity as, SSHAP's Administering Agency) will give the other Parties proper notice of any claim or suit coming within the purview of these indemnities.

18. INSURANCE. The Executive Board, SSHAP Executive Manager and the Administering Agency will take such steps as are reasonably practicable to minimize the liability of the Parties associated with their participation in this Agreement, including but not limited to the utilization of sound business practice. The Executive Board will determine which, if any, insurance policies may be reasonably practicably acquired to cover the operations of SSHAP and the activities of the Parties pursuant to this Agreement (which may include general liability, errors and omissions, fiduciary, crime and fidelity insurance), and will direct the acquisition of same.

19. AMENDMENTS. Any amendments to this Agreement must be in writing. This Agreement may be amended upon approval of the legislative bodies of all Parties to this Agreement, evidenced by the authorized signatures of those Parties as of the effective date of the amendment. This Section will not be construed to

require amendment of this Agreement for the addition of a new Party contemplated under Section 20 or for any related revision to Executive Board membership authorized in Section 5(a) or Advisory Board membership in Section 8(b). The Executive Board will review this Agreement, no less than every five years, to determine if the purposes of SSHAP are being achieved and if any amendments or modifications to the Agreement are needed.

20. ADDITIONAL PARTIES. Municipalities, local governments, tribes, and public agencies within the SSHAP Area of Activity may, on execution of the Agreement and approval of the budget and work plan by its legislative body, become a Party to this Agreement on affirmative vote of at least fifty percent of the Executive Board. The Executive Board will determine by a vote of at least fifty percent of its membership what, if any, funding obligations the additional Party will commit to as a condition of becoming a Party to this Agreement.

21. SEVERABILITY. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Agreement, will not affect the validity of the remaining provisions of the Agreement.

22. CONFLICT RESOLUTION. Whenever any dispute arises between the Parties or between a Party or Parties, the Executive Board, or the Administering Agency (referred to collectively in this Section as the "Parties") under this Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute in good faith by meeting, as soon as feasible. The meeting will include the Chair of the Executive Board, the SSHAP Executive Manager, and the representative(s) of the Parties involved in the dispute. If the parties do not come to an agreement on the dispute, any party may pursue mediation through a process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations. The mediator(s) will be individuals skilled in the legal and business aspects of the subject matter of this Agreement. The parties to the dispute will share equally the costs of mediation and assume their own costs.

23. SURVIVABILITY. Notwithstanding any provision in this Agreement to the contrary, the provisions of Section 10 (Agreement Duration), Section 11 (Termination of Agreement), Section 12 (Withdrawal), Section 16 (Public Records Requests), and Section 17 (Indemnification and Hold Harmless) will remain operative and in full force and effect, regardless of the withdrawal or termination of any Party or the termination of this Agreement.

24. WAIVER. No term or provision of this Agreement will be deemed waived and no breach excused unless that waiver or consent is in writing and signed by the Party claimed to have waived or consented.

25. SUBSEQUENT BREACH. Waiver of any default will not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement will not be deemed to be a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval of all Parties.

26. NOTICE. Any notice to the Executive Board will be in writing and will be addressed to the Chair of the Executive Board and to the SSHA³P Executive Manager. In the absence of a SSHA³P Executive Manager, notice will be given to the chief executive officer of the Administering Agency. Any notice to an Officer or Party will be sent, to the address specified by the chief executive officer of the Party.

27. ASSIGNMENT. No Party may sell, transfer or assign any of its rights or benefits under this Agreement without Executive Board approval.

28. APPLICABLE LAW AND VENUE. This Agreement and any rights, remedies, or obligations provided for in this Agreement will be governed, construed, and enforced in accordance with the substantive and procedural laws of the State. The Parties agree that the venue for any legal action under this Agreement is in the County in which a project is located, provided that the venue for any legal action against Pierce County may be filed in accordance with RCW 36.01.050.

29. RETAINED RESPONSIBILITY AND AUTHORITY. Parties retain the responsibility and authority for managing and maintaining their own internal systems and programs related to affordable/attainable housing activities.

30. INDEPENDENT CONTRACTORS. Each Party to this Agreement is an independent contractor with respect to the subject matter of this Agreement. No joint venture or partnership is formed as a result of this Agreement.

Nothing in this Agreement will make any employee of one Party an employee of another party for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's

compensation pursuant to Title 51 RCW, or any other rights or privileges accorded by virtue of their employment. No Party assumes any responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of any other Party's employees. No employees or agents of one Party will be deemed, or represent themselves to be, employees of another Party.

31. NO THIRD PARTY BENEFICIARIES. This Agreement is for the benefit of the Parties only, and no third party will have any rights under this agreement.

32. NONDISCRIMINATION. The Parties will comply with the nondiscrimination requirements of applicable federal, state and local statutes and regulations.

33. COUNTERPARTS. This Agreement may be signed in counterparts and, if so signed, will be deemed one integrated Agreement. Parties will submit copies of signed Agreements to the Administering Agency, or to Pierce County before an Administering Agency is selected.

34. FILING AND EFFECTIVE DATE; PRIOR AGREEMENTS. This Agreement will become effective (Date of Execution), subject to its approval by the legislative bodies of all jurisdictions who are members of SSHAP as of (Date of Execution), and, pursuant to RCW 39.34.040, upon recording this Agreement or posting this Agreement on a Party's web site or other electronically retrievable public source. Although this Agreement may be approved and signed by a Party after the Agreement's effective date, all acts consistent with the authority of this Agreement that occur on or after , (Date of Execution), are hereby ratified and affirmed, and the terms of this Agreement will be deemed to have applied.

(Signature Page Follows)

Approved and executed this _____ day of _____, 2019.

Name of Party: _____ Approved as to form

By: _____ City Attorney
Its: _____

Exhibit A – SSHA³P Area of Activity (Map)

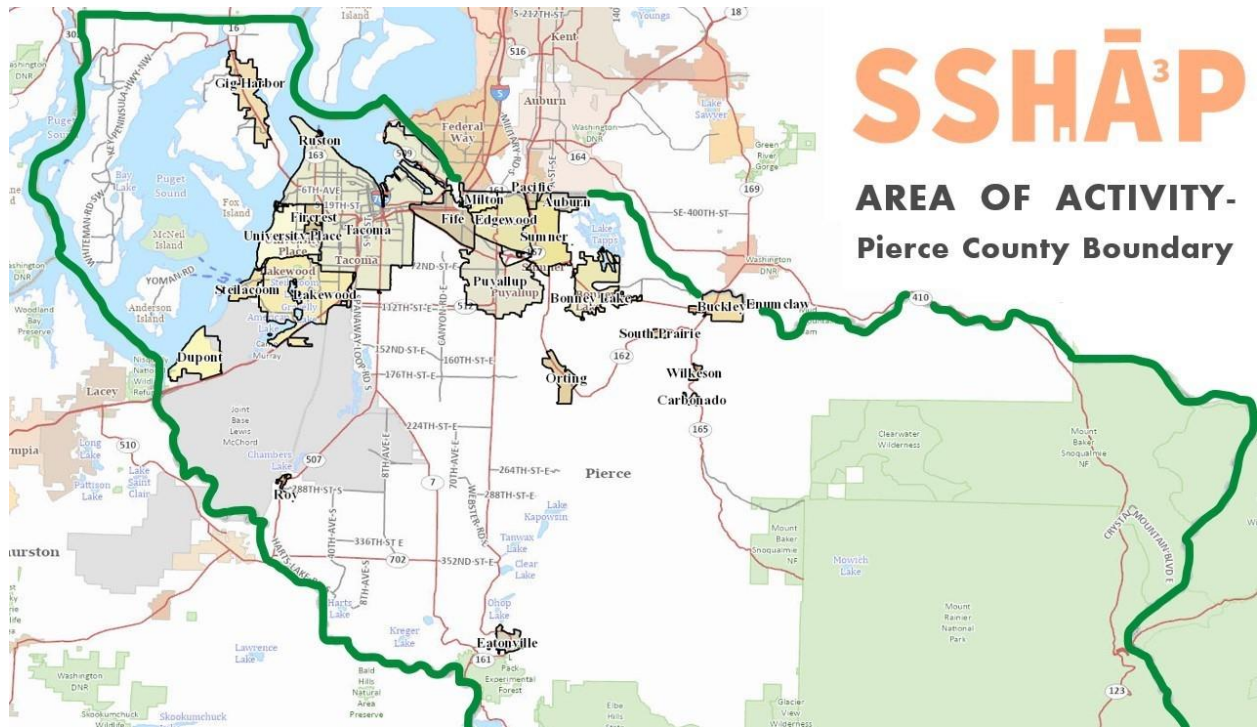


EXHIBIT B – SSHA³P Budgets for First 2.5 Years

NOTE: The following budgets are draft and won't be finalized until the final number of member governments are identified. The numbers may also change depending the amount of outside revenue raised.

The following provides draft budgets for years 1 (6 months of operations) 2 and 3. There are two scenarios: one in which ten governments participate and the other in which 16 governments participate.

DRAFT BUDGET PROPOSAL (10 Governments)**YEAR 1 (2021) - 1 FTE****Funding for 6 Months Operations****Annual Expense Budget**

Full-time manager with salary/taxes/benefits	\$	154,000
Administrative & policy support with salary/taxes/benefits (3 months)	\$	-
Direct Expenses - travel, phone, postage	\$	12,000
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	193,000
10% Overhead/Administration Fee	\$	19,300
TOTAL	\$	212,300
Cost for 6 months of Operations:	\$	106,150

Revenue Budget

Outside sources* (Philanthropy, aligned organizations)	\$	7,500
Office Space (in-kind donation) [Pro-rated]	\$	6,000
Shared among participating governments (see below)	\$	92,650
TOTAL	\$	106,150

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 2,250
Fife	10,360	1%	\$ 2,250
Gig Harbor	11,490	1%	\$ 2,250
Lakewood	60,330	7%	\$ 8,500
Puyallup	43,040	5%	\$ 6,500
Puyallup Tribe	6,000	1%	\$ 1,500
Steilacoom	6,555	1%	\$ 1,500
Sumner	10,500	1%	\$ 2,250
Tacoma	214,700	27%	\$ 22,000
Unincorporated Pierce Co	436,840	54%	\$ 46,000
TOTAL	809,865		\$ 95,000

YEAR 2 (2022) - 1.5 FTE
10 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 2nd year	\$	159,390
Administrative & policy support with salary/taxes/benefits/inflation 2nd yr	\$	67,636
Direct Expenses - travel, phone, postage	\$	12,420
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	266,446
10% Overhead/Administration Fee	\$	26,645
TOTAL	\$	293,090

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	266,090
TOTAL	\$	293,090

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 5,250
Fife	10,360	1%	\$ 5,250
Gig Harbor	11,490	1%	\$ 5,250
Lakewood	60,330	7%	\$ 22,000
Puyallup	43,040	5%	\$ 15,500
Puyallup Tribe	6,000	1%	\$ 4,250
Steilacoom	6,555	1%	\$ 4,250
Sumner	10,500	1%	\$ 5,250
Tacoma	214,700	27%	\$ 66,000
Unincorporated Pierce Co	436,840	54%	\$ 134,000
TOTAL	809,865		\$ 267,000

YEAR 3 (2023) - 1.5 FTE
10 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 3rd year	\$	164,969
Administrative & policy support with salary/taxes/benefits/inflation 3rd yr	\$	70,003
Direct Expenses - travel, phone, postage	\$	12,855
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	274,826
10% Overhead/Administration Fee	\$	27,483
TOTAL	\$	302,309

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	275,309
TOTAL	\$	302,309

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 5,434
Fife	10,360	1%	\$ 5,434
Gig Harbor	11,490	1%	\$ 5,434
Lakewood	60,330	7%	\$ 22,770
Puyallup	43,040	5%	\$ 16,043
Puyallup Tribe	6,000	1%	\$ 4,399
Steilacoom	6,555	1%	\$ 4,399
Sumner	10,500	1%	\$ 5,434
Tacoma	214,700	27%	\$ 68,310
Unincorporated Pierce Co	436,840	54%	\$ 138,690
TOTAL	809,865		\$ 276,345

DRAFT BUDGET PROPOSAL (16 Governments)**YEAR 1 (2021) - 1 FTE****Funding for 6 Months Operations****Annual Expense Budget**

Full-time manager with salary/taxes/benefits	\$	154,000
Administrative & policy support with salary/taxes/benefits (3 months)	\$	-
Direct Expenses - travel, phone, postage	\$	12,000
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	193,000
10% Overhead/Administration Fee	\$	19,300
TOTAL	\$	212,300
Cost for 6 months of Operations:	\$	106,150

Revenue Budget

Outside sources* (Philanthropy, aligned organizations)	\$	7,500
Office Space (in-kind donation) [Pro-rated]	\$	6,000
Shared among participating governments (see below)	\$	92,650
TOTAL	\$	106,150

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by Population Size
Auburn	10,050	1%	\$ 2,000
Dupont	9,605	1%	\$ 2,000
Edgewood	13,000	1%	\$ 2,000
Fife	10,360	1%	\$ 2,000
Fircrest	6,860	1%	\$ 2,000
Gig Harbor	11,490	1%	\$ 2,000
Lakewood	60,330	7%	\$ 7,000
Milton	6,845	1%	\$ 2,000
Orting	8,675	1%	\$ 2,000
Puyallup	43,040	5%	\$ 5,000
Puyallup Tribe	6,000	1%	\$ 1,000
Steilacoom	6,555	1%	\$ 1,000
Sumner	10,500	1%	\$ 2,000
Tacoma	214,700	24%	\$ 20,000
University Place	33,730	4%	\$ 5,000
Unincorporated Pierce Co	436,840	49%	\$ 41,000
TOTAL	888,580		\$ 98,000

YEAR 2 (2022) - 1.5 FTE
16 Governments Providing Full Year of Operations Funding

Annual Expense Budget

Full-time manager with salary/taxes/benefits/inflation for 2nd year	\$	159,390
Administrative & policy support with salary/taxes/benefits/inflation for 2nd year	\$	67,636
Direct Expenses - travel, phone, postage	\$	12,420
Insurance	\$	15,000
Space	\$	12,000
SubTotal	\$	266,446
10% Overhead/Administration Fee	\$	26,645
TOTAL	\$	293,090

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$	15,000
Office Space (in-kind donation)	\$	12,000
Shared among participating governments (see below)	\$	266,090
TOTAL	\$	293,090

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by population size
Auburn	10,050	1%	\$ 5,000
Dupont	9,605	1%	\$ 5,000
Edgewood	13,000	1%	\$ 5,000
Fife	10,360	1%	\$ 5,000
Fircrest	6,860	1%	\$ 3,000
Gig Harbor	11,490	1%	\$ 5,000
Lakewood	60,330	7%	\$ 20,000
Milton	6,845	1%	\$ 3,000
Orting	8,675	1%	\$ 5,000
Puyallup	43,040	5%	\$ 12,000
Puyallup Tribe	6,000	1%	\$ 3,000
Steilacoom	6,555	1%	\$ 3,000
Sumner	10,500	1%	\$ 5,000
Tacoma	214,700	24%	\$ 60,000
University Place	33,730	4%	\$ 12,000
Unincorporated Pierce Co	436,840	49%	\$ 120,000
TOTAL	888,580		\$ 271,000

YEAR 3 (2023) - 1.5 FTE
16 Governments Providing Full Year of Operations Funding

Annual Expense Budget

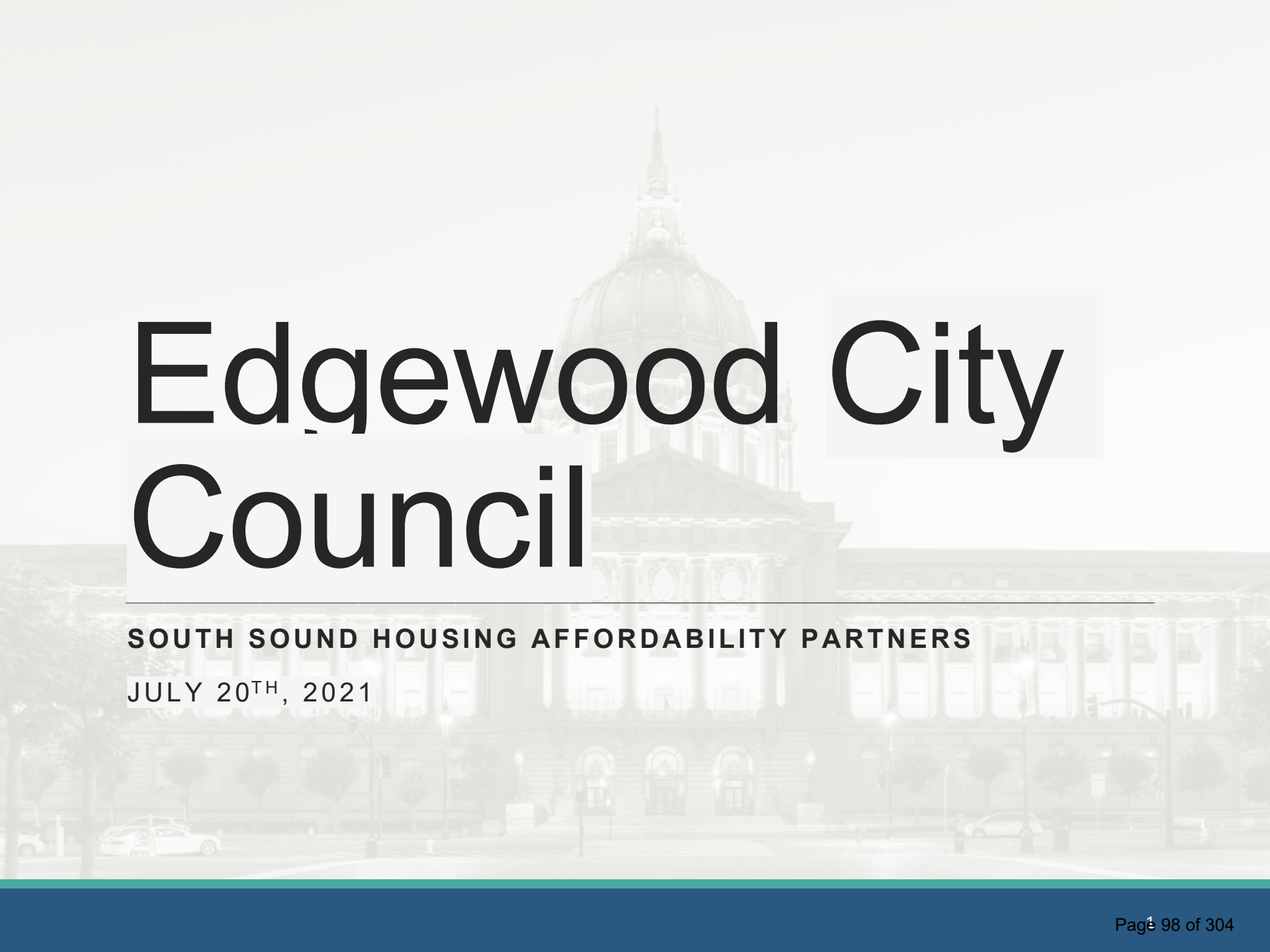
Full-time manager with salary/taxes/benefits/inflation for 3rd year	\$ 164,969
Administrative & policy support with salary/taxes/benefits/inflation for 3rd year	\$ 70,003
Direct Expenses - travel, phone, postage	\$ 12,855
Insurance	\$ 15,000
Space	\$ 12,000
SubTotal	\$ 274,826
10% Overhead/Administration Fee	\$ 27,483
TOTAL	\$ 302,309

Revenue Budget

Outside sources (Philanthropy, aligned organizations)	\$ 15,000
Office Space (in-kind donation)	\$ 12,000
Shared among participating governments (see below)	\$ 275,309
TOTAL	\$ 302,309

Shares for participating governments:

	Population (OFM 2021 est)	% of Population	Grouped by population size
Auburn	10,050	1%	\$ 5,175
Dupont	9,605	1%	\$ 5,175
Edgewood	13,000	1%	\$ 5,175
Fife	10,360	1%	\$ 5,175
Fircrest	6,860	1%	\$ 3,105
Gig Harbor	11,490	1%	\$ 5,175
Lakewood	60,330	7%	\$ 20,700
Milton	6,845	1%	\$ 3,105
Orting	8,675	1%	\$ 5,175
Puyallup	43,040	5%	\$ 12,420
Puyallup Tribe	6,000	1%	\$ 3,105
Steilacoom	6,555	1%	\$ 3,105
Sumner	10,500	1%	\$ 5,175
Tacoma	214,700	24%	\$ 62,100
University Place	33,730	4%	\$ 12,420
Unincorporated Pierce Co	436,840	49%	\$ 124,200
TOTAL	888,580		\$ 280,485



Edgewood City Council

SOUTH SOUND HOUSING AFFORDABILITY PARTNERS

JULY 20TH, 2021



SOUTH SOUND HOUSING AFFORDABILITY PARTNERS

Shaping Pierce County's Future by Creating Access to Affordable and Attainable Housing



We Have an Intergovernmental Agreement!

It's time for each local government to determine if they will join SSHA³P by adopting the agreement and making a financial commitment



Why Participate? Three Key Points

Provide support for policy and program development across multiple member governments.

Provide staffing support unique to the needs of each participating government seeking assistance.

Design and support demonstration projects that yield additional or preserve existing housing.

What SSHA³P Will **Not** Do

Usurp

- Usurp any government's land use authority

Duplicate

- Duplicate the work already being done by other government or quasi-governmental entities such as PCRC or PSRC

Another Layer

- Become another layer of bureaucracy adding new regulations on affordable/ attainable housing development

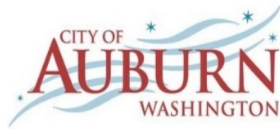
Each
Government
Is Welcome
To Join

Participation
in SSHA³P is
totally
voluntary

(A Coalition of the
Willing)

Governments Considering IGA

Logos indicate governments that are deciding whether they will participate in SSHA^{3P}.



Bonney Lake

Buckley

Carbonado



Eatonville



Pacific



Roy

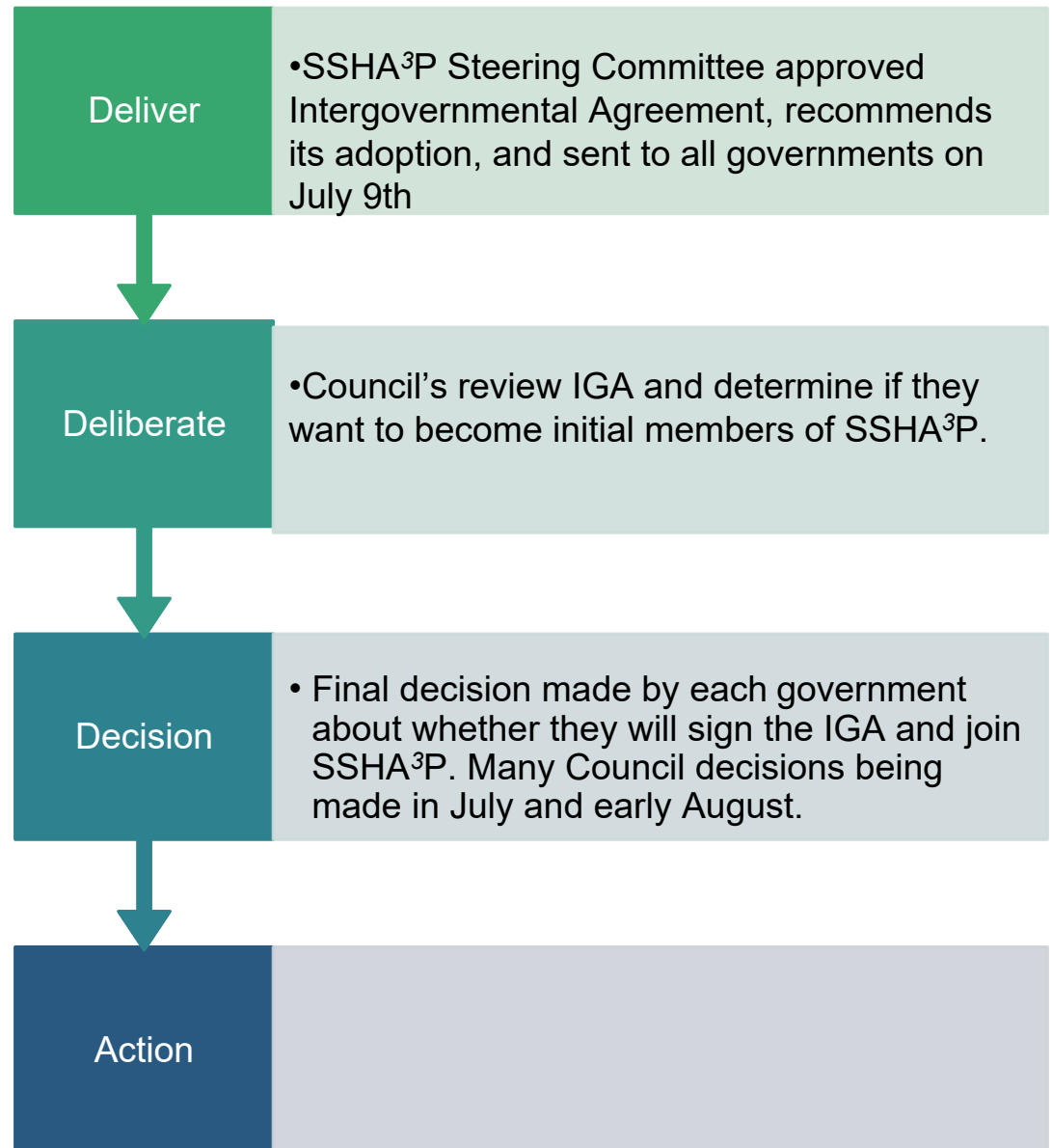
Ruston

South Prairie



Wilkeson

Steps Leading Up to Formal Launch in Sept.



Financial Commitment

Based on preliminary budget scenarios the annual contribution from Edgewood could be approximately :

\$5,000 to \$6,000

depending on the population of the jurisdiction and how many governments participate. Current range is 10-16 governments.

Would support SSHA³P staff of 1.5 FTE

DRAFT STRAW PROPOSAL OPTION 1 (11.04.20)

YEAR 1
1 FTE w/ Govts Providing 2020 Funding
6 months of Operations 1 FTE

Shares for participating cities:

	Population (OFM 2020 est)	% of Population	Option A: Strict Population	Option B: Grouped by sized**
Auburn	9,980	1%	\$ 1,057	\$ 1,750
Fife	10,200	1%	\$ 1,081	\$ 1,750
Gig Harbor	11,240	1%	\$ 1,191	\$ 1,750
Lakewood	60,030	8%	\$ 6,361	\$ 8,000
Puyallup	42,700	5%	\$ 4,525	\$ 6,000
Puyallup Tribe	6,000	1%	\$ 636	\$ 1,000
Steilacoom	6,505	1%	\$ 689	\$ 1,000
Sumner	10,360	1%	\$ 1,098	\$ 1,750
Tacoma	213,300	27%	\$ 22,602	\$ 20,000
Unincorporated Pierce Co	426,200	54%	\$ 45,161	\$ 42,500
TOTAL	796,515		\$ 84,400	\$ 85,500

YEAR 2
Govts Providing 2020 Funding; Full Year of Operations 1 FTE

Shares for participating cities:

	Population (OFM 2020 est)	% of Population	Option A: Strict Population	Option B: Grouped by sized*
Auburn	9,980	1%	\$ 2,189	\$ 3,500
Fife	10,200	1%	\$ 2,238	\$ 3,500
Gig Harbor	11,240	1%	\$ 2,466	\$ 3,500
Lakewood	60,030	8%	\$ 13,169	\$ 14,000
Puyallup	42,700	5%	\$ 9,367	\$ 10,000
Puyallup Tribe	6,000	1%	\$ 1,316	\$ 2,000
Steilacoom	6,505	1%	\$ 1,427	\$ 2,000
Sumner	10,360	1%	\$ 2,273	\$ 3,500
Tacoma	213,300	27%	\$ 46,791	\$ 43,000
Unincorporated Pierce Co	426,200	54%	\$ 93,494	\$ 90,000
TOTAL	796,515		\$ 174,729	\$ 175,000

How Might Edgewood Benefit by Joining SSHA³P?

- Edgewood will have a seat on the Executive Board and be granted an equal vote with all other participating governments determining what priority items will be in the SSHA³P work plan.
- Edgewood could get technical assistance and support to evaluate its current policies or regulations related to housing and/or to revise and adopt new ones.
- Edgewood through its participation will have a voice at state and regional decision tables regarding its priority affordable housing needs and actions.
- Edgewood could hear promising ideas from its peers about strategies they are deploying to preserve existing housing stock and homeowners (also strategies that have not worked well).
- Edgewood could share in resources that might be marshalled (i.e. pooling of capital funds) for preserving existing or producing additional affordable housing.

Discussion and Questions



Thank you to the
Steering Committee and
Staff Working Group that
got us to this place in the
journey!



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Resolutions – On-Call Consultant Services Contracts	Agenda Item #: 2.E		
	For Agenda of: 7/20/2021		
	Prepared by: Jeremy Metzler		
Attachments (list): 1. RFQ - 2021 On-Call Consultant Services_05172021_FINAL 2. DRAFT 2021 On-Call Consultant Contract_AEGIS Engineering 3. DRAFT 2021 On-Call Consultant Contract_AESI 4. DRAFT 2021 On-Call Consultant Contract_AHBL, Inc 5. DRAFT 2021 On-Call Consultant Contract_BHC Consultants 6. DRAFT 2021 On-Call Consultant Contract_Bush, Roed & Hitchings, Inc 7. DRAFT 2021 On-Call Consultant Contract_Clarify Consulting 8. DRAFT 2021 On-Call Consultant Contract_DKS Associates 9. DRAFT 2021 On-Call Consultant Contract_Gray & Osborne Inc 10. DRAFT 2021 On-Call Consultant Contract_Herrera Environmental Consultants Inc 11. DRAFT 2021 On-Call Consultant Contract_Raedeke Associates, Inc 12. DRAFT 2021 On-Call Consultant Contract_Robinson Noble, Inc 13. DRAFT 2021 On-Call Consultant Contract_SAFEbuilt Washington, LLC 14. DRAFT 2021 On-Call Consultant Contract_SCJ Alliance 15. DRAFT 2021 On-Call Consultant Contract_Transpo Group 16. DRAFT 2021 On-Call Consultant Contract_Transpotation Solutions, Inc 17. DRAFT 2021 On-Call Consultant Contract_West Coast Code Consultants Inc (WC3)			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> Approval of Materials: Jeremy Metzler Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eidinger 7/15/2021 </td><td style="width: 50%; vertical-align: top;"> Expenditure Required: Amount Budgeted: Timeline: 07/20/2021 SS 07/27/2021 RCM </td></tr> </table>		Approval of Materials: Jeremy Metzler Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eidinger 7/15/2021	Expenditure Required: Amount Budgeted: Timeline: 07/20/2021 SS 07/27/2021 RCM
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Summary Statement:

The City recently advertised a Request for Qualifications (RFQ) to professional consulting firms licensed under the laws of the State of Washington capable of performing a variety of on-call, as-needed consulting services in the following disciplines: Transportation Planning and Engineering, Civil Engineering Support, Building Department Support, Geotechnical Engineering, Wetland / Critical Area Consulting, Professional Land Surveying, Planning, and Fire Protection Engineering. Attached is the RFQ for reference. The City last executed on-call contracts in these disciplines in July 2018, and said contracts all expired on July 1, 2021. New contracts must be executed as soon as practicable in order to continue receiving said valuable on-call services.

After scoring of the 40 submittals received, staff recommends executing contracts with 16 consulting firms, and attached are drafts of said contracts. Staff is working with each of the consultants to bring partially executed documents to Council for action at the next regular council meeting, including authorizing resolutions, as they are

ready and available.

Please note the City's internal administrative & accounting control manual language identifies how on-call contracts are utilized in the City, and the contract language included herein makes clear there is no expectation on the part of the City or the Consultant as to any actual dollars being spent (i.e., no obligation to spend funds).

Item History:

N/A

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion – Resolutions – On-Call Consultant Services Contracts

Fiscal Note/Consideration:

The total of all contracts equals a not to exceed amount of \$4,525,000.00 over the course of the next three (3) years. The actual expenditures must be appropriated annually by Council, and staff expects actual expenditures to be significantly less. This high total is due to executing contracts with multiple on-call vendors in each discipline, allowing the City rapid access to specialty consulting if and when a particular firm may not be available, as the City needs this work done in a timely fashion. The City Finance Department monitors on-call activity for all open contracts in aggregate to ensure the City is in compliance with the Council's current year appropriation for each discipline of work.

City of Edgewood

REQUEST FOR QUALIFICATIONS

2021 ON-CALL CONSULTANT SERVICES

I. PURPOSE OF REQUEST.

The City of Edgewood ("City") is seeking Statements of Qualifications (SOQs) from professional consulting firms licensed under the laws of the State of Washington to select a qualified consultant capable of performing a variety of on-call, as-needed consulting services. The City does not expect that one consulting firm will have the ability to perform all of the services listed below. However, if your firm can provide more than one of the services, please provide a separate SOQ for each. The City is seeking SOQs for the following professional on-call services:

1. **Transportation Planning and Engineering:** design services, project review, concurrency program management, technical support
2. **Civil Engineering Support:** project and construction plan review, design services, technical assistance, and field inspections, with a focus on surface water, pedestrian facilities, and roadways
3. **Building Department Support:** construction plan review and field inspection services
4. **Geotechnical Engineering:** project review, technical assistance, and design services
5. **Wetland / Critical Area Consulting:** technical, peer, and mitigation plan review and design
6. **Professional Land Surveying:** field survey, data collection, map preparation, and other land surveying services in support of City projects & facilities
7. **Planning:** project review, case management
8. **Fire Protection Engineering:** construction plan review and field inspection services, with a focus on multi-story buildings and smoke control

The numbered categories listed above correspond with numbered sections at the end of this request, containing detailed information about the requirements for each. This numbering does not necessarily represent the magnitude of work or importance of each category.

The City does not expect or require a large amount of preliminary work to be performed by the firms submitting for consideration through the selection process. It is the City's intent to select consultants based on past performance, qualifications, and the ability to perform the necessary work and to complete assigned projects within the timeframe specified. Once the City has reviewed the qualifications, one or more firms may be requested to provide additional information and/or participate in an interview process. **Do not submit any price or fee information at this time. Firms providing such information as part of their response to this request may be disqualified.**

The selected consultant(s) will be expected to work with the City as a partner, working with City staff as directed to support needs as they arise. Work under this contract will be performed on a task order basis, each with a specific scope, budget, and schedule for the required services. The consultant will be expected

to frequently respond to short notice requests and should be capable of performing urgent task order assignments while working on other simultaneous task orders. **Any contracts executed pursuant to this Request for Qualifications are expected to run through July 2024 and shall be substantially in the form attached to this RFQ.**

II. TIME SCHEDULE.

The City will attempt to follow this general timetable. This schedule is provided for information only and may be adjusted as needed. Proposers are encouraged to reserve flexibility for interviews:

Issue Request for Qualifications	May 19, 2021
Deadline for submittal of Request for Qualifications	June 8, 2021
Preliminary Selection of Firms to Interview (if applicable)	June 15, 2021
Begin Preparing Agreements with Chosen Firms	June 29, 2021
Initial Council Consideration of Firms	July 6, 2021
Council Authorization to Execute Agreements with Consultant	July 13, 2021

III. INSTRUCTIONS TO PROPOSERS.

- A. **One (1) electronic copy** of the SOQ must be received by **June 8, 2021 at 4:00 PM**. The SOQ must identify the applicable disciplines on the cover. *No faxed or hard copies will be accepted.* It is the responsibility of the firm to ensure the complete SOQ arrives on time and to the correct location. Any SOQ received after the scheduled closing time shall be returned to the firm noted as “rejected” by the City Clerk.
- B. All SOQs should be electronically submitted to:
City of Edgewood
Attn: Rachel Pitzel, City Clerk
RE: RFQ Proposal On-Call Service No. (*specify one through eight from options on page 1*)
Email: rachel@cityofedgewood.org
- C. Any additional information or addendum to this request will be issued by the City prior to the submittal deadline. The City will e-mail such information directly to known interested parties. Though not a requirement, proposers are encouraged to register with the City Clerk, Rachel Pitzel, so they can be apprised of any addendums to this RFQ.
- D. SOQs should be prepared simply and economically, providing a straightforward, concise description of provider capabilities to perform the type of work identified, satisfy the requirements of the request and be **limited to 8 single-sided pages total (per category)**.
- E. All submittals of qualifications must include the following information:
1. The names of individuals, including any proposed sub-consultants who will be working on the proposed services, and their areas of individual expertise and responsibility.
 2. A brief overview of the company, including how long in business, privately or publicly owned, state of incorporation or registration, Federal & State tax identification, and if the business qualifies under the Washington State Minority Business criteria, etc.

3. At least three (3) recent references (within the last 12 months), including entity name, contact person with email and telephone number. Municipal references preferred.
4. The name, title and authority of the individual authorized to execute the contract upon award.

IV. SELECTION CRITERIA.

The City will evaluate SOQs with an Evaluation Committee to determine rankings based upon materials submitted, using the selection criteria and points indicated below. The Evaluation Committee may be comprised of City staff, appointed or elected officials, and other professionals. Multiple firms of each discipline may be selected to establish the roster, and several consultants may be invited for interviews. The following may be used to evaluate the applicants:

- A. Demonstrated experience / expertise in the applicable service(s) – **20 points**
- B. Previous experience and familiarity with the City of Edgewood – **10 points**
- C. Demonstrated ability to work efficiently from individual task order assignments, including timely responsiveness and cost effectiveness – **10 points**
- D. Previous overall experience of consultant team assigned to project – **15 points**
- E. References and similar project experience – **10 points**
- F. General impressions and presentation of qualifications – **5 points**
- G. Understanding of the services requested and general approach to on-call services – **15 points**
- H. Familiarity and knowledge of the Edgewood Municipal Code and all other applicable adopted codes and policies relating to the discipline of services provided – **15 points**

V. TERMS AND CONDITIONS.

- A. The City reserves the right to reject any and all SOQs and waive any minor irregularities.
- B. The City reserves the right to request clarification of information submitted, and to request additional information from any firm.
- C. The City reserves the right to award any contract to the next most qualified firm, if the successful firm does not execute a contract by the proposed date of July 13, 2021.
- D. The contract resulting from acceptance of a proposal by the City shall be in a form supplied or approved by the City (substantially in the form of the agreement attached to this RFQ) and shall reflect the specifications in this request. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this request, and which is not approved by the City Attorney. Contractors shall obtain all required insurance and provide proof of such insurance to the City in accordance with the contract.

- E. The City shall not be responsible for any costs incurred by any consulting firm in preparing, submitting or presenting its SOQ.

VI. SCOPE OF SERVICES.

The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Task Orders may include work and/or review for projects not specifically noted in the examples detailed herein. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit sub consultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with sub consultants for the performance of any work under this Agreement without prior written permission of the City.

General Background

The City of Edgewood is 8.9 square miles and home to nearly 14,000 residents. The City is entirely within Pierce County and is geographically located in the “North Hill” area surrounded by the cities of Milton, Fife, Puyallup and Sumner. The City’s northern boundary is adjacent to King County. Incorporated as a code city, the City of Edgewood formed on February 28, 1996 and has operated under the strong Mayor form of government since August 2015. The City of Edgewood is a contract city with a staff of approximately 27, the city has seen an increase in transactional activity growth over the last 3 years of 43%; therefore, it is necessary to have consultants available to assist with projects on an as needed basis to better manage heavy workloads or to perform services that are not performed by on-staff personnel.

Additional Information

As a contract City, Edgewood typically issues a variety of task-based work in several fields of expertise to on-call consultants. The City expects to develop long-term relationships with efficient service providers that can effectively respond to continuing work on a priority and on-call/as needed basis, provide exemplary service and perform to the satisfaction of the City.

It is possible that more than one firm will be selected to contract with the City for on-call/as needed services in one or more of the specialty areas noted. The City of Edgewood reserves the right to award additional work or projects to the same firm, or another firm as necessary.

VII. OTHER INFORMATION

For additional information or explanation of the contents or intent of these specifications, please contact the City with your questions via email to Rachel Pitzel, City Clerk/HR Director, at rachel@cityofedgewood.org or by telephone at (253) 952-3299.

PROFESSIONAL SERVICE CATEGORIES AND DETAILS

1. TRANSPORTATION PLANNING AND ENGINEERING

Scope of Work: Provide support to City staff as needed to complete a variety of general municipal transportation planning, engineering and development project review support work that may include, but is not limited to, the following:

- Task based transportation planning and engineering services necessary to support efficient project review and implementation by the City of Edgewood.
- Review of development projects, including project-specific Traffic Impact Analysis (TIA), submitted as part of a project review.
- Site inspections for new development and permit compliance related to transportation infrastructure and related systems.
- Maintain the City's concurrency program traffic model and track development projects.
- Traffic Impact Fee review and technical support.
- Public Hearing support before the Hearing Examiner.
- City Council technical support on major policy discussions.
- Provide support on City transportation capital projects and grants as requested.
- Develop and recommend draft transportation standards and roadway designs consistent with City policy and standards.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and Public Works Directors. A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

2. CIVIL ENGINEERING SUPPORT

Scope of Work: Provide support to City staff as needed to complete a variety of general municipal civil engineering ask and development project review support work that may include, but is not limited to, the following:

- Review of stormwater plans and Drainage Reports from applicants, on development and land use proposals as required, providing an evaluation of the information provided, the analysis methodology used, conformance with threshold determinations, and conclusions / recommendations made consistent with the 2015 Pierce County Stormwater Management and Site Development Manual and local code amendments (EMC 13.05.170).
- Development compliance inspection services, which may involve the following:
 - Observation of on-site soils and topography to confirm suitability of proposed stormwater management methods and facilities.
 - Site review of Best Management Practices (BMP's) as installed for conformance with approved plans and permits.

- o Inspection of roadway and other frontage improvements associated with development projects, including recommendations for acceptance.
- City-initiated project coordination and technical services based on task level assignments.
- General technical guidance on issues relative to surface water drainage, infiltration suitability, and potential for sub-surface groundwater flows.
- General technical guidance on issues relative to pedestrian mobility and ADA compliance.
- General technical guidance on roadway design and conformance with applicable standards.
- City Council and Hearing Examiner professional support as requested to respond to major policy issues and permit approvals or recommendations as a technical expert.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and/or Public Works Director(s). A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

3. BUILDING DEPARTMENT SUPPORT

Scope of Work: Building Department support services are intended to supplement the City's existing Building Department plan review and building inspection staff with supplemental on-call services to meet peak project review needs. The general municipal building plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to structural, energy code, barrier free, mechanical and plumbing plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required occasionally and the City may request that some inspection services be provided with some projects or to meet peak activity demand.

4. GEOTECHNICAL ENGINEERING

Scope of Work: The general municipal engineering support work for geotechnical services may include, but is not limited to the following:

- The consultant will review geotechnical reports from project applicants and other engineers / geologists and provide evaluation of the information provided, the analysis methodology used and conclusions / recommendations made as well as conformance with Title 14 EMC – Critical Areas (with an emphasis on EMC 14.80 - Landslide Hazard Areas, review procedures and EMC 14.90 - Seismic Hazard Area standards).
- Project level inspection services as assigned.

- Provide project level on-call services for City-initiated capital projects (review plans and specifications) and technical response to emerging geotechnical issues that pose a threat to the City's infrastructure or systems as a supplement to the City's existing staffing.
- Support staff in preparing critical area and development code updates and policy related support related to geotechnical review.
- Occasionally provide technical support to the City Council and reports or testimony at City's Hearing Examiner matters as required to support policy and project level reviews.

The consultant may perform on-site soils / materials sampling and testing to confirm adherence to construction standards or specifications and perform on-site and office work to provide guidance on issues relative to slope stability, infiltration suitability and sub-surface groundwater flows.

5. WETLANDS / CRITICAL AREA CONSULTING

Scope of Work: The general municipal wetland and critical area support work may include, but is not limited to the following:

- The consultant will perform wetland and critical area review for substantial conformance with Title 14 EMC (Critical Areas), delineation and reporting services for both **public (City initiated) and private project applications** in accordance with the most current version of the development codes and standards as adopted by the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans, and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary application or site review or other meetings may be required occasionally.
- As directed, periodically provide support before the Edgewood City Council and prepare reports and/or testify before the Edgewood Hearing Examiner as a subject matter expert.
- Provide task level support for code updates and compliance efforts related to wetland and critical area compliance and permitting.

6. PROFESSIONAL LAND SURVEYING

Scope of Work: The general municipal surveying support work may include, but is not limited to the following:

- The consultant may perform surveying services to confirm property lines, perform or establish record surveys for City-owned property and preliminary topographic surveying for City projects prior to design or repair.
- The consultant team may be tasked with preparing and recording all documentation required for the City to verify and provide certification for projects that will utilize federal funding.
- Laying out staking for roadways, sidewalks or paths, underground utilities, storm drainage facilities, buildings or other appurtenances during project construction may also be required.
- Reviewing survey records and projects that will need to be recorded under the City's direction as needed.

7. PLANNING

Scope of Work: Provide support to City staff as needed to complete a variety of general municipal planning, and development project review support work that may include, but is not limited to, the following:

- Review of project permit applications for code compliance in a timely manner, keeping in mind the deadlines for the City to issue a final decision by law.
- Communicate and coordinate with applicants, their consultants, and other City department staff.
- Prepare staff reports and recommendations in a timely manner.
- Present reports to and/or testify before the City's Hearing Examiner, Planning Commission, and City Council (as needed).
- Keep track of project permit applications in the review process, to ensure that a final decision issues in a timely manner.
- Provide additional planning services as requested.

8. FIRE PROTECTION ENGINEERING

Scope of Work: Fire Protection Engineering services are intended to support the City's existing Building Department plan review and building inspection staff with on-call services specific to this discipline, with a focus on multi-story buildings and smoke control. The plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to fire protection, suppression, and smoke control plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required, and the City may request that inspection services be provided specific to this discipline.

PROFESSIONAL SERVICE CATEGORIES ANNUAL AVERAGE EXPENDITURES

Number	Type of On-Call Contract Service	Average Annual Expenditure
1	Transportation Planning and Engineering	\$250,000
2	Civil Engineering Support	\$250,000
3	Building Department Support	\$30,000
4	Geotechnical Engineering	\$30,000
5	Wetlands/Critical Area Consulting	\$25,000
6	Professional Land Surveying	\$25,000
7	Planning	\$75,000
8	Fire Protection Engineering	\$50,000

NOTE: The City of Edgewood's annual expenditure for on-call services may fluctuate significantly due to city staffing, project volume & scope, and city capital project activity.

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
AEGIS ENGINEERING**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and AEGIS Engineering, PLLC (hereinafter the "Consultant"), a Washington Professional Limited Liability Company organized under the laws of the State of Washington located and doing business at 13024 Beverly Park Road, Unit 202, Mukilteo, WA 98275.

RECITALS

WHEREAS, the City requires the provision of fire protection engineering on-call services; and

WHEREAS, the Consultant has agreed to provide fire protection engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed One - Hundred Fifty Thousand Dollars (\$150,000.00) for the services described in Section I herein. This

is the maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Brian Thompson, P.E.
AEGIS Engineering
13024 Beverly Park Rd Unit 202
Mukilteo, WA 98275

Phone: 425-745-4700

CITY:

Attn: James Tumelson
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4253
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Brian Thompson, P.E.
Principal, Co-Owner

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Fire Protection Engineering services are intended to support the City's existing Building Department plan review and building inspection staff with on-call services specific to this discipline, with a focus on multi-story buildings and smoke control. The plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to fire protection, suppression, and smoke control plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required, and the City may request that inspection services be provided specific to this discipline.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
ASSOCIATED EARTH SCIENCES, INC. (AESI)**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Associated Earth Sciences, Inc. (AESI), (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 1552 Commerce Street, Suite 102, Tacoma, WA 98402.

RECITALS

WHEREAS, the City requires the provision of geotechnical engineering on call services; and

WHEREAS, the Consultant has agreed to provide geotechnical engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seventy-Five Thousand Dollars (\$75,000.00) for the services described in Section I herein. This is the maxi-um

amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Stephen A. Siebert, P.E.
Associated Earth Sciences, Inc. (AESI)
1552 Commerce Street, Suite 102
Tacoma, WA 98402

Phone: 253-722-2992

CITY:

Attn: Chuck Hendricksen
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2560

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Bruce Blyton P.E.
President

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

The general municipal engineering support work for geotechnical services may include, but is not limited to the following:

- The consultant will review geotechnical reports from project applicants and other engineers / geologists and provide evaluation of the information provided, the analysis methodology used and conclusions / recommendations made as well as conformance with Title 14 EMC – Critical Areas (with an emphasis on EMC 14.80 - Landslide Hazard Areas, review procedures and EMC 14.90 - Seismic Hazard Area standards).
- Project level inspection services as assigned.
- Provide project level on-call services for City-initiated capital projects (review plans and specifications) and technical response to emerging geotechnical issues that pose a threat to the City's infrastructure or systems as a supplement to the City's existing staffing.
- Support staff in preparing critical area and development code updates and policy related support related to geotechnical review.
- Occasionally provide technical support to the City Council and reports or testimony at City's Hearing Examiner matters as required to support policy and project level reviews.

The consultant may perform on-site soils / materials sampling and testing to confirm adherence to construction standards or specifications and perform on-site and office work to provide guidance on issues relative to slope stability, infiltration suitability and sub-surface groundwater flows.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
AHBL, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and AHBL, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 2215 North 30th Street, Suite 300, Tacoma, WA 98403.

RECITALS

WHEREAS, the City requires the provision of planning on-call services; and

WHEREAS, the Consultant has agreed to provide planning on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Two-Hundred Thousand Dollars (\$200,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in this Agreement and

shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Wayne E. Carlson, FAICP, LEED AP
AHBL, Inc.
2215 North 30th Street, Suite 300
Tacoma, WA 98403-3350

Phone: 253-722-2992

CITY:

Attn: Darren Groth
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4249

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Wayne E. Carlson, FAICP, LEED AP
Principal

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal planning, and development project review support work that may include, but is not limited to, the following:

- Review of project permit applications for code compliance in a timely manner, keeping in mind the deadlines for the City to issue a final decision by law.
- Communicate and coordinate with applicants, their consultants, and other City department staff.
- Prepare staff reports and recommendations in a timely manner.
- Present reports to and/or testify before the City's Hearing Examiner, Planning Commission, and City Council (as needed).
- Keep track of project permit applications in the review process, to ensure that a final decision issues in a timely manner.
- Provide additional planning services as requested.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
BHC CONSULTANTS**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and BHC Consultants, LLC (hereinafter the "Consultant"), a Washington Limited Liability Company organized under the laws of the State of Washington located and doing business at 1601 Fifth Avenue, Suite 500, Seattle, WA 98101.

RECITALS

WHEREAS, the City requires the provision of building department support on-call services; and

WHEREAS, the Consultant has agreed to provide building department support on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seventy-Five Thousand Dollars (\$75,000.00) for the services described in Section I herein. This is the maximum

amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This

Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the

parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or

self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.

- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: William C. Hill, CBO, ACO
BHC Consultants
1601 Fifth Avenue, Suite 500
Seattle, WA 98101

Phone: 206-505-3400
Fax: 206-505-3406

CITY:

Attn: James Tumelson
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4253
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Ronald Dorn, P.E.
President

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Building Department support services are intended to supplement the City's existing Building Department plan review and building inspection staff with supplemental on-call services to meet peak project review needs. The general municipal building plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to structural, energy code, barrier free, mechanical and plumbing plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required occasionally and the City may request that some inspection services be provided with some projects or to meet peak activity demand.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
BUSH, ROED & HITCHINGS, INC. (BRH)**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Bush, Roed & Hitchings, Inc. (BRH), (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 2009 Minor Avenue East, Seattle, WA 98102-3513.

RECITALS

WHEREAS, the City requires the provision of professional land surveying support on-call services; and

WHEREAS, the Consultant has agreed to provide professional land surveying support on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seventy-Five Thousand Dollars (\$75,000.00) for the services described in Section I herein. This is the maximum

amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: James Harper, PLS,
Bush, Roed & Hitchings, Inc.
2009 Minor Avenue East
Seattle, WA 98102-3513

Phone: 206-323-4144
Fax: 206-323-7135

CITY:

Attn: Jeremy Metzler
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4266
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Dakin A. Bell, BS, PLS
Principal

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

The general municipal surveying support work may include, but is not limited to the following:

- The consultant may perform surveying services to confirm property lines, perform or establish record surveys for City-owned property and preliminary topographic surveying for City projects prior to design or repair.
- The consultant team may be tasked with preparing and recording all documentation required for the City to verify and provide certification for projects that will utilize federal funding.
- Laying out staking for roadways, sidewalks or paths, underground utilities, storm drainage facilities, buildings or other appurtenances during project construction may also be required.
- Reviewing survey records and projects that will need to be recorded under the City's direction as needed.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
CLARITY CONSULTING ENGINEERS**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Clarity Consulting Engineers, PLLC (hereinafter the "Consultant"), a Washington Professional Limited Liability Company organized under the laws of the State of Washington located and doing business at 3013 Lala Cove Lane SE, Olalla, WA 98359.

RECITALS

WHEREAS, the City requires the provision of building department support and fire protection engineering on-call services; and

WHEREAS, the Consultant has agreed to provide building department support and fire protection engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Two-Hundred Thousand Dollars (\$200,000.00) for the services described in Section I herein. This is the

maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Hoyt D. Jeter, P.E.
Clarity Consulting Engineers
13013 Lala Cove Lane SE
Olalla, WA 98359

Phone: 206-356-7790

CITY:

Attn: James Tumelson
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4253

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Hoyt D. Jeter, P.E.
President/Owner

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Building Department support services are intended to supplement the City's existing Building Department plan review and building inspection staff with supplemental on-call services to meet peak project review needs. The general municipal building plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to structural, energy code, barrier free, mechanical and plumbing plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required occasionally and the City may request that some inspection services be provided with some projects or to meet peak activity demand.

Fire Protection Engineering services are intended to support the City's existing Building Department plan review and building inspection staff with on-call services specific to this discipline, with a focus on multi-story buildings and smoke control. The plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to fire protection, suppression, and smoke control plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required, and the City may request that inspection services be provided specific to this discipline.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
DKS ASSOCIATES**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and DKS Associates, (hereinafter the "Consultant"), a Corporation organized under the laws of the State of California located and doing business at 719 Second Avenue, Suite 1250, Seattle, WA 98104.

RECITALS

WHEREAS, the City requires the provision of transportation planning and engineering on-call services; and

WHEREAS, the Consultant has agreed to provide transportation planning and engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Five-Hundred Thousand Dollars (\$500,000.00) for the services described in Section I herein. This is the

maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant

and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Jerry Liu, P.E., PTOE
DKS Associates
719 Second Avenue, Suite 1250
Seattle, WA 98104

Phone: 206-382-9800

CITY:

Attn: Chuck Hendricksen
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2560

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Richard Hutchinson, P.E., PTOE
Principal-in-Charge

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A Scope of Work

Provide support to City staff as needed to complete a variety of general municipal transportation planning, engineering and development project review support work that may include, but is not limited to, the following:

- Task based transportation planning and engineering services necessary to support efficient project review and implementation by the City of Edgewood.
- Review of development projects, including project-specific Traffic Impact Analysis (TIA), submitted as part of a project review.
- Site inspections for new development and permit compliance related to transportation infrastructure and related systems.
- Maintain the City's concurrency program traffic model and track development projects.
- Traffic Impact Fee review and technical support.
- Public Hearing support before the Hearing Examiner.
- City Council technical support on major policy discussions.
- Provide support on City transportation capital projects and grants as requested.
- Develop and recommend draft transportation standards and roadway designs consistent with City policy and standards.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and Public Works Directors. A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
GRAY AND OSBORNE, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Gray and Osborne, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 1130 Rainier Avenue South, Suite 300, Seattle, WA 98144.

RECITALS

WHEREAS, the City requires the provision of engineering and surveying on-call services; and

WHEREAS, the Consultant has agreed to provide engineering and surveying on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven-Hundred Fifty Thousand Dollars (\$750,000.00) for the services described in Section I herein. This

is the maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Tani Stafford, P.E.
Gray & Osborne, Inc.
1130 Rainier Avenue South, Suite 300
Seattle, WA 98144

Phone: 206-284-0860
Fax: 206-283-3206

CITY:

Attn: Jeremy Metzler
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4266
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Michael B. Johnson, P.E.
President

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal civil engineering and development project review support work that may include, but is not limited to, the following:

- Review of stormwater plans and Drainage Reports from applicants, on development and land use proposals as required, providing an evaluation of the information provided, the analysis methodology used, conformance with threshold determinations, and conclusions / recommendations made consistent with the 2015 Pierce County Stormwater Management and Site Development Manual and local code amendments (EMC 13.05.170).
- Development compliance inspection services, which may involve the following:
 - Observation of on-site soils and topography to confirm suitability of proposed stormwater management methods and facilities.
 - Site review of Best Management Practices (BMP's) as installed for conformance with approved plans and permits.
 - Inspection of roadway and other frontage improvements associated with development projects, including recommendations for acceptance.
- City-initiated project coordination and technical services based on task level assignments.
- General technical guidance on issues relative to surface water drainage, infiltration suitability, and potential for sub-surface groundwater flows.
- General technical guidance on issues relative to pedestrian mobility and ADA compliance.
- General technical guidance on roadway design and conformance with applicable standards.
- City Council and Hearing Examiner professional support as requested to respond to major policy issues and permit approvals or recommendations as a technical expert.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and/or Public Works Director(s). A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

The general municipal surveying support work may include, but is not limited to the following:

- The consultant may perform surveying services to confirm property lines, perform or establish record surveys for City-owned property and preliminary topographic surveying for City projects prior to design or repair.
- The consultant team may be tasked with preparing and recording all documentation required for the City to verify and provide certification for projects that will utilize federal funding.
- Laying out staking for roadways, sidewalks or paths, underground utilities, storm drainage facilities, buildings or other appurtenances during project construction may also be required.
- Reviewing survey records and projects that will need to be recorded under the City's direction as needed.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
HERRERA ENVIRONMENTAL CONSULTANTS, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Herrera Environmental Consultants, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 2200 Sixth Avenue, Suite 1100, Seattle, WA 98121.

RECITALS

WHEREAS, the City requires the provision of engineering on-call services; and

WHEREAS, the Consultant has agreed to provide engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Five-Hundred Thousand Dollars (\$500,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in this Agreement and

shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Joy Michaud, P.E.
Herrera Environmental Consultants, Inc.
2200 Sixth Avenue, Suite 00
Seattle, WA 98144

Phone: 206-441-9080

CITY:

Attn: Jeremy Metzler
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4266

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Theresa Wood
Vice President

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal civil engineering ask and development project review support work that may include, but is not limited to, the following:

- Review of stormwater plans and Drainage Reports from applicants, on development and land use proposals as required, providing an evaluation of the information provided, the analysis methodology used, conformance with threshold determinations, and conclusions / recommendations made consistent with the 2015 Pierce County Stormwater Management and Site Development Manual and local code amendments (EMC 13.05.170).
- Development compliance inspection services, which may involve the following:
 - Observation of on-site soils and topography to confirm suitability of proposed stormwater management methods and facilities.
 - Site review of Best Management Practices (BMP's) as installed for conformance with approved plans and permits.
 - Inspection of roadway and other frontage improvements associated with development projects, including recommendations for acceptance.
- City-initiated project coordination and technical services based on task level assignments.
- General technical guidance on issues relative to surface water drainage, infiltration suitability, and potential for sub-surface groundwater flows.
- General technical guidance on issues relative to pedestrian mobility and ADA compliance.
- General technical guidance on roadway design and conformance with applicable standards.
- City Council and Hearing Examiner professional support as requested to respond to major policy issues and permit approvals or recommendations as a technical expert.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and/or Public Works Director(s). A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
RAEDEKE ASSOCIATES, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Raedeke Associates, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 2111 N. Northgate Way, Suite 219, Seattle, WA 98133.

RECITALS

WHEREAS, the City requires the provision of wetlands and critical area on-call services; and

WHEREAS, the Consultant has agreed to provide wetlands and critical area on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seventy-Five Thousand Dollars (\$75,000.00) for the services described in Section I herein. This is the maximum

amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Richard W. Lundquist, M.S.
Raedeke Associates, Inc.
2211 N. Northgate Way, Suite 219
Seattle, WA 98133

Phone: 206-525-8122
Fax: 206-526-2880

CITY:

Attn: Emily Arteche
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2557
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Richard W. Lundquist, M.S.
President/Wildlife Biologist

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A Scope of Work

The general municipal wetland and critical area support work may include, but is not limited to the following:

- The consultant will perform wetland and critical area review for substantial conformance with Title 14 EMC (Critical Areas), delineation and reporting services for both **public (City initiated) and private project applications** in accordance with the most current version of the development codes and standards as adopted by the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans, and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary application or site review or other meetings may be required occasionally.
- As directed, periodically provide support before the Edgewood City Council and prepare reports and/or testify before the Edgewood Hearing Examiner as a subject matter expert.
- Provide task level support for code updates and compliance efforts related to wetland and critical area compliance and permitting.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
ROBINSON NOBLE, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Robinson Noble, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 2105 South C Street, Tacoma, WA 98402.

RECITALS

WHEREAS, the City requires the provision of geotechnical engineering on call services; and

WHEREAS, the Consultant has agreed to provide geotechnical engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seventy-Five Thousand Dollars (\$75,000.00) for the services described in Section I herein. This is the maximum

amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Rick Powell, P.E.
Robinson Noble, Inc.
2105 South C Street
Tacoma, WA 98402

Phone: 253-475-7711
Fax: 253-472-5846

CITY:

Attn: Chuck Hendricksen
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2560
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Rick Powell, P.E.
Principal-in-Charge

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

The general municipal engineering support work for geotechnical services may include, but is not limited to the following:

- The consultant will review geotechnical reports from project applicants and other engineers / geologists and provide evaluation of the information provided, the analysis methodology used and conclusions / recommendations made as well as conformance with Title 14 EMC – Critical Areas (with an emphasis on EMC 14.80 - Landslide Hazard Areas, review procedures and EMC 14.90 - Seismic Hazard Area standards).
- Project level inspection services as assigned.
- Provide project level on-call services for City-initiated capital projects (review plans and specifications) and technical response to emerging geotechnical issues that pose a threat to the City's infrastructure or systems as a supplement to the City's existing staffing.
- Support staff in preparing critical area and development code updates and policy related support related to geotechnical review.
- Occasionally provide technical support to the City Council and reports or testimony at City's Hearing Examiner matters as required to support policy and project level reviews.

The consultant may perform on-site soils / materials sampling and testing to confirm adherence to construction standards or specifications and perform on-site and office work to provide guidance on issues relative to slope stability, infiltration suitability and sub-surface groundwater flows.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
SAFEUILT WASHINGTON, LLC**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and SAFEuilt Washington, LLC, (hereinafter the "Consultant"), a Limited Liability Company organized under the laws of the State of Delaware located and doing business at 1621 114th Avenue SE, Suite 219, Bellevue, WA 98004.

RECITALS

WHEREAS, the City requires the provision of building department support and fire protection engineering on-call services; and

WHEREAS, the Consultant has agreed to provide building department support and fire protection engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Two-Hundred Thousand Dollars (\$200,000.00) for the services described in Section I herein. This is the

maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all third party claims, injuries, damages, losses or suits including attorney fees, to the extent arising out of or resulting from the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the ~~sole~~ negligence of the Public Entity. Neither Party shall be obligated to indemnify the other Party in any manner whatsoever for the other Party's own negligence, or for the acts of their respective officers, trustees, employees and/or agents.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL OR OTHER INDIRECT DAMAGES, REGARDLESS OF WHETHER THE REMAINING REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
 3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: David Spencer, CBO
Operations Manager
SAFEbuilt Washington, LLC
1621 114th Avenue SE, Suite 219
Bellevue, WA 98004

Phone: 425-213-2612

CITY:

Attn: James Tumelson
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4253

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____

Thomas P. Wilkas
Chief Financial Officer

CITY OF EDGEWOOD

By: _____

Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

DRAFT

Exhibit A

Scope of Work

Building Department support services are intended to supplement the City's existing Building Department plan review and building inspection staff with supplemental on-call services to meet peak project review needs. The general municipal building plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to structural, energy code, barrier free, mechanical and plumbing plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required occasionally and the City may request that some inspection services be provided with some projects or to meet peak activity demand.

Fire Protection Engineering services are intended to support the City's existing Building Department plan review and building inspection staff with on-call services specific to this discipline, with a focus on multi-story buildings and smoke control. The plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to fire protection, suppression, and smoke control plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required, and the City may request that inspection services be provided specific to this discipline.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
SCJ ALLIANCE**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Shea Carr & Jewell, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 8730 Tallon Lane NE, Suite 200, Lacey, WA 98516.

RECITALS

WHEREAS, the City requires the provision of planning on-call services; and

WHEREAS, the Consultant has agreed to provide planning on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Two-Hundred Thousand Dollars (\$200,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in this Agreement and

shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Dan Penrose, AICP
SCJ Alliance
8730 Tallon Lane NE, Suite 200
Lacey, WA 98516

Phone: 360-352-1465
Fax: 360-352-1509

CITY:

Attn: Darren Groth
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4249
With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Dan Penrose, AICP
Principal-in-Charge/Planning Lead

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal planning, and development project review support work that may include, but is not limited to, the following:

- Review of project permit applications for code compliance in a timely manner, keeping in mind the deadlines for the City to issue a final decision by law.
- Communicate and coordinate with applicants, their consultants, and other City department staff.
- Prepare staff reports and recommendations in a timely manner.
- Present reports to and/or testify before the City's Hearing Examiner, Planning Commission, and City Council (as needed).
- Keep track of project permit applications in the review process, to ensure that a final decision issues in a timely manner.
- Provide additional planning services as requested.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
TRANSCO GROUP USA, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Transpo Group USA, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 12131 113th Avenue NE, Suite 203, Kirkland, WA 98034.

RECITALS

WHEREAS, the City requires the provision of transportation planning and engineering on-call services; and

WHEREAS, the Consultant has agreed to provide transportation planning and engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Seven-Hundred Fifty Thousand Dollars (\$750,000.00) for the services described in Section I herein. This

is the maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Jon Pascal, P.E., PTOE
Transpo Group USA, Inc.
12131 113th Avenue NE, Suite 203
Kirkland, WA 98034

Phone: 425-821-3665

CITY:

Attn: Chuck Hendricksen
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2560

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Jon Pascal, P.E., PTOE
Project Manager, Principal-in-Charge

CITY OF EDGEWOOD

By: _____
Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal transportation planning, engineering and development project review support work that may include, but is not limited to, the following:

- Task based transportation planning and engineering services necessary to support efficient project review and implementation by the City of Edgewood.
- Review of development projects, including project-specific Traffic Impact Analysis (TIA), submitted as part of a project review.
- Site inspections for new development and permit compliance related to transportation infrastructure and related systems.
- Maintain the City's concurrency program traffic model and track development projects.
- Traffic Impact Fee review and technical support.
- Public Hearing support before the Hearing Examiner.
- City Council technical support on major policy discussions.
- Provide support on City transportation capital projects and grants as requested.
- Develop and recommend draft transportation standards and roadway designs consistent with City policy and standards.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and Public Works Directors. A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
TRANSPORTATION SOLUTIONS, INC.**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and Transportation Solutions, Inc., (hereinafter the "Consultant"), a Washington Corporation organized under the laws of the State of Washington located and doing business at 16932 Woodinville-Redmond Road, Suite A206, Woodinville, WA 98072.

RECITALS

WHEREAS, the City requires the provision of transportation planning and engineering on-call services; and

WHEREAS, the Consultant has agreed to provide transportation planning and engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Five-Hundred Thousand Dollars (\$500,000.00) for the services described in Section I herein. This is the

maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Andrew L. Bratlien, P.E.
Transportation Solutions, Inc.
16932 Woodinville-Redmond Road, Suite A206
Woodinville, WA 98072

Phone: 425-883-4134

CITY:

Attn: Chuck Hendricksen
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-392-2560

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Victor L. Salemann, P.E.
President/Principal-in-Charge

CITY OF EDGEWOOD

By: _____
Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Provide support to City staff as needed to complete a variety of general municipal transportation planning, engineering and development project review support work that may include, but is not limited to, the following:

- Task based transportation planning and engineering services necessary to support efficient project review and implementation by the City of Edgewood.
- Review of development projects, including project-specific Traffic Impact Analysis (TIA), submitted as part of a project review.
- Site inspections for new development and permit compliance related to transportation infrastructure and related systems.
- Maintain the City's concurrency program traffic model and track development projects.
- Traffic Impact Fee review and technical support.
- Public Hearing support before the Hearing Examiner.
- City Council technical support on major policy discussions.
- Provide support on City transportation capital projects and grants as requested.
- Develop and recommend draft transportation standards and roadway designs consistent with City policy and standards.

The Consultant will be expected to work directly with staff, primarily as a technical expert, as coordinated with the City's Community Development and Public Works Directors. A lead staff member from each Department may be assigned to work directly with the Consultant to provide timely and efficient review and project delivery, providing direct support for public participation, formal hearings and project review. Work may also occasionally include consultant participation in City Council Study Sessions (1st and 3rd Tuesdays of the month), targeted project updates with staff at regular City Council meetings (2nd and 4th Tuesdays of the month), or attendance at and participation in City Hearings Examiner matters.

Exhibit B
Rate Schedule

DRAFT

**ON-CALL CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF EDGEWOOD AND
WEST COAST CODE CONSULTANTS, INC. (WC³)**

THIS AGREEMENT is made by and between the City of Edgewood, a Washington municipal corporation (hereinafter the "City"), and West Coast Code Consultants, Inc. (hereinafter the "Consultant"), a Corporation organized under the laws of the State of California located and doing business at 19109 36th Avenue W, Suite 207, Lynnwood, WA 98036.

RECITALS

WHEREAS, the City requires the provision of building department support and fire protection engineering on-call services; and

WHEREAS, the Consultant has agreed to provide building department support and fire protection engineering on-call services;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform services described in Exhibit A. The City shall issue a written Task Order for each project assigned to the Consultant. The written Task Order shall include the following information, which may be furnished in consultation with the Consultant: (1) Task Order Title (project name); (2) technical approach to the task (if necessary); (3) specific deliverables; (4) schedule with milestones and deliverables; (5) cost/hour estimate; (6) due date of work. All of these items may be brief but will be sufficiently detailed for the Consultant to understand the work being authorized and the amount it will cost. Written Task Orders and Notices to Proceed may be issued as e-mail documents.

The City does not permit subconsultants for those items of work necessary for the completion of any Task Order on any project. The Consultant shall not subcontract with subconsultants for the performance of any work under this Agreement without prior written permission of the City.

II. Payment

A. This Agreement does not guarantee any amount of work for the Consultant. Task Orders will be developed as determined by the City and as provided for in this Agreement. The City shall pay the Consultant an amount based on time and materials, not to exceed Two-Hundred Thousand Dollars (\$200,000.00) for the services described in Section I herein. This is the

maximum amount to be paid under this Agreement for the work described in this Agreement and shall not be exceeded without the prior written authorization of the City as outlined in Section II(D) below.

B. The Consultant shall be paid by the City for completed services rendered under each approved individual Task Order. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies equipment and incidentals necessary to complete the work. The Consultant shall submit an itemized invoice to the City for each separate Task Order after the services have been performed.

C. The amount paid by the City for each invoice shall not exceed the amount in Section II(A) above and the Hourly Billing Rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

D. The Consultant will not undertake any work or otherwise financially obligate the City in excess of said not-to-exceed amount in Section II (A) without a duly authorized amendment to this Agreement. In the event services are required beyond those specified in the Scope of Work and are not included in the compensation listed in this Agreement, a written contract amendment shall be negotiated and approved by the City before any effort is expended on such services.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The Consultant shall not begin any work under this Agreement until an authorized Task Order has been agreed upon by the parties, and the City has issued a Notice to Proceed. This Agreement shall expire on July 31, 2024, unless extended by an amendment executed by the duly authorized representatives of the parties.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement at any time prior to completion of the work described herein. Termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which records, and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, creed, religion, color, sex, sexual orientation, citizenship or immigration status, military or veteran status, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability,

including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance. Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

- C. Other Insurance Provisions. The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain or be endorsed to contain that they shall be primary insurance with respect to the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be in excess of the Consultant's insurance and shall not contributed with it.
- D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- E. Verification of Coverage. Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.
- F. No Limitation. The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
- G. Notice of Cancellation. Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.
- H. Failure to Maintain Insurance. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
- I. City Full Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the Consultant will notify the City of any inaccuracies in the information provided by the City as may be

discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

The Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement. In addition, all work of Consultant must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof, regardless of independent contractor status.

XII. Compliance with Federal, State, and Local Laws

The Consultant shall comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss of or damage to materials, tools, or other articles used or held by the Consultant for use in connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the Mayor of the City of Edgewood to determine the term or provision's true intent or meaning. The City of Edgewood shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Attn: Martha (Marty) Gillis, CBO
West Coast Code Consultants, Inc. (WC³)
19109 36th Avenue W, Suite 207
Lynnwood, WA 98036

Phone: 425-582-1719

CITY:

Attn: James Tumelson
City of Edgewood
2224 - 104th Avenue East
Edgewood, WA 98372

Phone: 253-831-4253

With a copy to the "City Clerk" at the same address.

XVII. Assignment

Consultant shall not assign this Agreement or subcontract or assign any of the work provided for herein without the prior written consent of the City.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

This Agreement contains the entire agreement between the parties and the written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal or written agreements of the parties. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 27th day of July, 2021.

CONSULTANT

By: _____
Martha (Marty) Gillis, CBO
NW Regional Manager/Project
Manager

CITY OF EDGEWOOD

By: _____
Daryl Eidinger, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

City Attorney

Exhibit A

Scope of Work

Building Department support services are intended to supplement the City's existing Building Department plan review and building inspection staff with supplemental on-call services to meet peak project review needs. The general municipal building plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to structural, energy code, barrier free, mechanical and plumbing plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required occasionally and the City may request that some inspection services be provided with some projects or to meet peak activity demand.

Fire Protection Engineering services are intended to support the City's existing Building Department plan review and building inspection staff with on-call services specific to this discipline, with a focus on multi-story buildings and smoke control. The plan review and inspection support work may include, but is not limited to the following:

In accordance with the currently adopted City of Edgewood codes, the consultant will be expected to perform building plan reviews for a full range of residential and non-residential building types that may include, but are not limited to fire protection, suppression, and smoke control plans submitted with building applications to the City of Edgewood. Should corrections be required, the consultant will provide the City with specific details regarding incomplete or incorrect items on the plans and a description of what corrections or additions are required as well as references to the specific, applicable code sections relating to the deficiencies. Attendance at preliminary review or other meetings may be required, and the City may request that inspection services be provided specific to this discipline.

Exhibit B
Rate Schedule

DRAFT



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Ordinance – Traffic Impact Fees Code Amendment	Agenda Item #: 2.F
	For Agenda of: 7/20/2021
	Prepared by: Jeremy Metzler
Attachments (list): 1. 1 - TIF Final Signed PC Recommendation 2. 2 - Acknowledge-Letter-2021-S-2708 3. DRAFT Ordinance 21-xxxx - Chapter 4.30 Transportation Impact Fees 4. DRAFT Exhibit A	
Approval of Materials: Jeremy Metzler Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eidinger 7/15/2021	Expenditure Required: N/A
	Amount Budgeted: N/A
	Timeline: 07/20/2021 SS 07/27/2021 RCM

Summary Statement:

As currently codified, Traffic Impact Fees are established and regulated under Edgewood Municipal Code (EMC) Chapter 4.30. This section of code specifically references *“the City of Edgewood Transportation Impact Fee Program Report dated October 2016, attached hereto as Exhibit A”*. Due to this very direct reference, any updates to the City’s Transportation Impact Fee (TIF) program and/or fee would require an amendment to EMC.

With this chapter of code qualifying as a development regulation under GMA, amendments to this chapter require consideration by the Planning Commission and appropriate notice to the Department of Commerce. The Planning Commission held a public hearing on this matter at their June 14, 2021 meeting and passed the attached recommendation to the Council. Also attached for reference is the Department of Commerce's acknowledgement letter, stating that the noticing period ends on July 25, 2021. A public hearing was held with the City Council at last week's regular meeting, and no public comments were received. Following tonight's discussion, the soonest action will be considered is at the July 27, 2021 regular meeting (following the noticing period end date).

Finally, the TIF program and fee are not in and of themselves considered to be development regulations. The attached draft code amendment would remove the specific reference mentioned above, allowing the Council to update the TIF program and fee by ordinance in the future (without the need to amend the EMC).

Item History:

07/06/2021 SS

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion – Ordinance – Traffic Impact Fees Code Amendment

Fiscal Note/Consideration:

Following approval of this ordinance, review and/or revision of the TIF program and/or fee could be accomplished by Council ordinance at a future date without the need to amend the EMC. There are no changes to the TIF program and/or fee proposed under this item at this time.



**CITY OF EDGEWOOD
PLANNING COMMISSION
RECOMMENDATION**

The Planning Commission voted 7-0 to recommend APPROVAL of the proposed code amendment to the Edgewood Municipal Code (EMC) pertaining to the Traffic Impact Fees (TIF) program, and to send their recommendation to the City Council for consideration.

It is the recommendation of the City of Edgewood Planning Commission to approve the drafted EMC amendments as presented in the staff report and attachments submitted by Public Works Director Jeremy Metzler for the June 14, 2021 Planning Commission agenda.

**RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 14TH DAY OF JUNE 2021.**

Attest by:

A handwritten signature in cursive script, appearing to read "Evan Hietpas".

Evan Hietpas
Associate Planner

A handwritten signature in cursive script, appearing to read "John R. Woodfield, Chair".

Planning Commission Chair



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

05/27/2021

Mr. Jeremy Metzler
Senior Engineer / Surface Water Program Manager
City of Edgewood
2224 104th Avenue East
Edgewood, WA 98372

Sent Via Electronic Mail

Re: City of Edgewood--2021-S-2708--60-day Notice of Intent to Adopt Amendment

Dear Mr. Metzler:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under [RCW 36.70A.106](#). We received your submittal with the following description.

Proposed code amendments pertaining to Edgewood Municipal Code (EMC) Title 4, including the deletion of references to previous ordinances in the following Sections: EMC 4.30.075 Project List, EMC 4.30.090 Impact Fee Adjustment, Independent Calculations EMC 4.30.100 Impact fee credits. EMC 4.

We received your submittal on 05/26/2021 and processed it with the Submittal ID 2021-S-2708. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 07/25/2021.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Anne Fritzel, (360) 725-3064.

Sincerely,

Review Team
Growth Management Services

ORDINANCE NO. 21-xxxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AMENDING CHAPTER 4.30 OF THE EDGEWOOD MUNICIPAL CODE RELATED TO TRANSPORTATION IMPACT FEES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Edgewood imposes a transportation impact fee, as authorized by Chapters 36.70A and 82.02 RCW, to ensure that public facilities and services necessary to support development are adequate and that new development pays a proportionate share of the costs of new facilities and services; and

WHEREAS, Chapter 4.30 of the Edgewood Municipal Code (“EMC”) establishes the standards, procedures, projects, and fees that apply to transportation impacts; and

WHEREAS, the EMC, as currently written, requires an amendment to the code whenever updates to the project list and/or fees are necessary; and

WHEREAS, the Planning Commission held a Public Hearing at their June 14, 2021 meeting and made a recommendation to the City Council; and

WHEREAS, the City Council considered the Planning Commission’s recommendation at their July 6, 2021 study session;

WHEREAS, the City Council held a Public Hearing at their July 13, 2021 regular meeting;

WHEREAS, the City Council has determined that amendments to the EMC would provide the City with greater flexibility whenever updates are needed, considering said code amendment at their July 20, 2021 study session and July 27, 2021 regular meeting;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. EMC Section 4.30.075, Project list, Amended. EMC Section 4.30.075, Project list, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. EMC Section 4.30.090, Impact fee adjustments, independent calculations, Amended. EMC Section 4.30.090, Impact fee adjustments, independent calculations, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 3. EMC Section 4.30.100, Impact fee credits, Amended. EMC Section 4.30.100, Impact fee credits, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 4. EMC Section 4.30.130, Council review of impact fees, Amended. EMC Section 4.30.130, Council review of impact fees, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 5. EMC Section 4.30.150, Impact fee calculations, Amended. EMC Section 4.30.150, Impact fee calculations, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 6. EMC Section 4.30.160, Schedule of fees, Amended. EMC Section 4.30.160, Schedule of fees, is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 7. EMC Section 4.30.190, Repealed. EMC Section 4.30.190 is hereby repealed in its entirety, as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 8. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 9. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication. The full text of this Ordinance shall be mailed without charge, upon request.

PASSED BY THE CITY COUNCIL ON THE 27TH DAY OF JULY, 2021

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

City Attorney, Ann Marie J. Soto

Date of Publication:
Effective Date:

4.30.075 Project list.

A. The director shall annually review the city's six-year road plan and shall:

1. Identify each project in the comprehensive plan that is growth-related and the proportion of each such project that is growth-related;
2. Forecast the total money available from taxes and other public sources for transportation improvements for the next six years;
3. Update the population, building activity and demand and supply data for transportation facilities and the impact fee schedule for the next six-year period;
4. Calculate the amount of impact fees already paid;
5. Identify those comprehensive plan projects that have been or are being built but whose performance capacity has not been fully utilized.

B. The director shall use this information to prepare an annual draft amendment to the project list and to the fee schedule ~~in Exhibit A attached to the ordinance codified~~adopted pursuant to in this chapter, which shall comprise:

1. The projects in the comprehensive plan that are growth-related and that should be funded with forecast public monies and the impact fees already paid; and
2. The projects in the comprehensive plan that are growth-related and that should be funded with forecast public monies and the impact fees already paid; and
3. The projects already built or funded pursuant to this chapter whose performance capacity has not been fully utilized.

C. The city council, at the same time that it adopts the annual budget and appropriates funds for capital improvement projects, shall, by separate ordinance, establish the annual project list by adopting, with or without modification, the director's draft amendment.

D. Once a project is integrated into the project list and fee schedule ~~in Exhibit A~~, a fee shall be imposed on every development until the project is removed from the project list by one of the following means:

1. The city council by ordinance removes the project from the project list, in which case the fees already collected will be refunded if necessary to ensure that impact fees remain reasonably related to transportation impacts of development that have paid an impact fee; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another project that the council determines will mitigate essentially the same transportation impacts; or
2. The capacity created by the project has been fully utilized, in which case the director shall remove the project from the project list.

4.30.090 Impact fee adjustments, independent calculations.

An applicant may request an adjustment to the impact fees determined, in accordance with RCW 82.02.060(6), according to the fee schedule adopted ~~by the ordinance codified in~~ pursuant to this chapter, by preparing and submitting to the mayor or designee an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. Independent fee calculations for traffic impact fees shall use the same formulas and methodology used to establish the impact fees in this chapter and shall be limited to adjustments in trip generation rates used in the traffic impact fee study, and shall not include travel demand forecasts, trip distribution, traffic assignment, transportation service areas, costs of road projects, or cost allocation procedures.

A. If the mayor or designee agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the applicant who shall, in turn, present it to the city upon impact fee collection.

B. If the mayor or designee does not agree with the independent fee calculation, the fee payer may appeal this decision to the hearing examiner through procedures outlined in Chapter 2.40 EMC.

4.30.100 Impact fee credits.

A. An applicant shall be entitled to a credit against the applicable traffic impact fee collected, in accordance with RCW 82.02.060(4), under the fee schedule adopted ~~by the ordinance codified in~~ pursuant to this chapter for the value of any dedication of land for, improvement to, or new construction of, any system improvements provided by the applicant, to facilities that are:

1. Included within the six-year transportation improvement program and identified as system improvements that are to be funded in part by traffic impact fees; and
2. At suitable sites and constructed at an acceptable quality as determined by the city; and
3. Completed, dedicated, or otherwise transferred to the city prior to the determination and award of a credit as set forth in this section.

B. No credit shall be given for project improvements.

C. The value of a credit for improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the impact fee is charged.

D. The value of a credit for land shall be established on a case-by-case basis by an appraiser selected by, or acceptable to, the city. The appraiser must be licensed and in good standing with the state of Washington for the category of the property appraised. The appraisal shall be in accordance with the most recent version of the Uniform Standards of Professional Appraisal Practice and shall be subject to review and acceptance by the city. The appraisal and review shall be at the expense of the applicant.

E. Whenever a development is granted approval subject to a condition the system improvements that are identified in the six-year transportation improvement program be constructed or provided, or whenever the applicant has agreed, pursuant to the terms of a voluntary agreement with the city of Edgewood, to donate or dedicate land for road facilities that are identified in the six-year

transportation improvement program, and which are included in the list of road projects that are used to determine the traffic impact fee, as listed in the traffic impact fee study, the applicant shall be entitled to a credit for the value of the land or actual costs of capital facility construction against the fee that would be chargeable under the formula provided. The land value or costs of construction shall be determined pursuant to this section.

F. This subsection applies only to residential developments and the residential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per dwelling unit basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (A) through (E) of this section, and divide that amount by the number of dwelling units approved for that plat or project. The impact fee and credit may then be calculated and collected on a per dwelling unit basis as building permits are issued for those dwelling units. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted dwelling units will be calculated to arrive at a per dwelling unit amount in the same manner. For example, if a plat has been approved for 20 dwelling units, and building permits have only been issued for 10 of those units, the per dwelling unit credit for the remaining 10 units will equal the total credit amount divided by 20 dwelling units.

G. This subsection applies to nonresidential developments, or the nonresidential portion of a mixed use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per square foot basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (A) through (C) of this section, and divide that amount by the number of square feet approved for that plat or project. The impact fee and credit may then be calculated and collected on a per square foot basis as building permits are issued for that square footage. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted square footage will be calculated to arrive at a per square footage amount in the same manner. For example, if a 20,000 square foot commercial project has been approved, and building permits have only been issued for 10,000 square feet of the project, the per square foot credit for the remaining 10,000 square feet will equal the total credit amount divided by 20,000 square feet.

H. Pursuant to and consistent with the requirements of RCW 82.02.060(1)(b), impact fee schedules have been adjusted for future taxes and other revenue sources to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development.

I. After receiving the receipts for improvements, the appraisal of land value, the receipts and calculations of prior payments earmarked or pro-ratable to the same system improvements for which the impact fee is imposed, the mayor or designee shall provide the applicant with a letter setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter indicating their agreement to the terms of the letter and return such signed document to the city before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

J. If the amount of the credit is less than the calculated fee amount, the difference remaining shall be chargeable as an impact fee and paid at the time of application for the building permit. In the event

the amount of the credit is calculated to be greater than the amount of the impact fee due, no further sums shall be due from the applicant.

K. A claim for credit will be processed by the city using whichever of the following options is selected by the applicant:

1. Claims for credits that are submitted prior to, or with, an application for a building permit for which an impact fee will be due will be processed by the city before payment of the impact fee is due in order to allow any credit authorized by the city to reduce the amount of the impact fee; or
2. Claims for credits that are submitted no later than 30 days after the issuance of a building permit for which an impact fee is due shall be processed by the city after the impact fee is paid in full, and any credit authorized by the city will be refunded to the applicant within 90 days of receipt of the claim for credit.

L. Claims for credits that are submitted more than six months after the issuance of a building permit for which an impact fee is due are deemed to be waived and shall be denied.

M. Determinations made by the mayor or designee pursuant to this section shall be subject to appeal to the examiner subject to the procedures set forth in Chapter 2.40 EMC.

4.30.130 Council review of impact fees.

The impact fee schedule adopted ~~by the ordinance codified in~~ pursuant to this chapter shall be reviewed by the city council, as it deems necessary and appropriate, in conjunction with the update of the city's transportation improvement program. Amendments or updates to the impact fee schedule shall be adopted by ordinance.

4.30.150 Impact fee calculations.

The traffic impact fee shall be calculated using a schedule that identifies a particular fee amount for a particular type of development, as supported by and consistent with the City of Edgewood Transportation Impact Fee Program Report dated October 2016, and any adopted updates or amendments thereto, ~~attached hereto as Exhibit A, and incorporated herein by this reference as if set forth in full.~~ Accessory dwelling units shall be calculated using ITE number 220, Apartment customer type.

4.30.160 Schedule of fees.

A traffic impact fee shall be assessed against all new development ~~as set forth in Exhibit A, in the Transportation Impact Fee Schedule, attached to the ordinance codified in~~ adopted pursuant to this chapter ~~and incorporated herein by reference as if set forth in full.~~ This fee schedule represents the city's determination of the appropriate share of system improvement costs to be paid by new growth and development.

4.30.190 Effective date.

~~The ordinance codified in this chapter or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five days after publication. (Ord. 07-282 § 1).~~

DRAFT



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – Ordinance – Traffic Concurrency Review Threshold	Agenda Item #: 2.G
	For Agenda of: 7/20/2021
	Prepared by: Jeremy Metzler
Attachments (list): 1. 1 - DRAFT Ordinance 21-xxxx - Concurrency Review Threshold 2. 2 - Traffic Concurrency Final Signed PC Recommendation 3. 3 - Acknowledge-Letter-2021-S-2619	
Approval of Materials: Jeremy Metzler Rachel Pitzel 7/14/2021 Dave Gray 7/15/2021 Daryl Eidinger 7/15/2021	Expenditure Required: N/A Amount Budgeted: N/A Timeline: 07/20/2021 SS 07/27/2021 RCM

Summary Statement:

Staff reviewed the Annual Concurrency Report, prepared in accordance with Edgewood Municipal Code (EMC) 18.105.220, with the council at the April 6, 2021 study session. In said report, the city's on-call transportation engineering consultant, the Transpo Group, recommended the city update the concurrency review threshold prescribed in EMC 18.105.030, stating:

The Edgewood Municipal Code (EMC) currently requires that all developments be tested for concurrency, even small, short-plats that generate few new vehicle trips. The concurrency report has demonstrated that there is generally sufficient capacity in the transportation system to accommodate the City's land use plan. In the past 5 years, only one development has not met concurrency. In that specific case, the development generated more than 300 PM peak hour trips, and the primary access was a two-way stop-controlled intersection along Meridian Avenue.

We recommend that the language in the EMC 18.105 be revised to exempt developments generating fewer than 15 PM peak hour trips from the concurrency process, consistent with the City's current traffic study guidelines. Developments that generate fewer than 15 PM peak hour trips are typically 'captured' in the annual growth rate applied to traffic counts and have negligible impact on the transportation system. Developments still may be reviewed under the State Environmental Policy Act (SEPA) and the City's development review process to evaluate impacts and potential mitigation to address site access and safety issues.

Following the above recommendation, staff presented the attached draft ordinance for discussion at the April 20, 2021 council study session. In that discussion, Council asked for more information regarding the review threshold used in other cities. Here is a summary of staff's findings:

- Sumner, Algona, Auburn – N/A
- Pacific – Any new peak hour trips (same as current Edgewood code)
- Black Diamond, Buckley, Burien, Covington, Federal Way, Fircrest, Lakewood, Puyallup, Tacoma, University Place – Any new peak hour trips (same threshold, different model code)
- Enumclaw – 5 or more peak hour trips
- Bonney Lake, Kent – 10 or more peak hour trips
- Maple Valley, Orting – 15 or more peak hour trips

As this ordinance relates to an existing development regulation, this must first be considered by the Planning Commission and undergo a 60-day noticing period through the Department of Commerce. The Planning Commission held a public hearing at their June 14, 2021 meeting and passed the attached recommendation to the Council. Also attached for reference is the Department of Commerce's acknowledgement letter, stating the noticing period end date of June 28, 2021. A public hearing was held with the City Council at last week's regular meeting, and no public comments were received.

Finally, there was some interest expressed by Council at the last study session to reduce the proposed threshold to 10 or more peak hour trips. Staff is prepared to update the attached draft materials following tonight's discussion, for final consideration at the July 27, 2021 regular meeting.

Item History:

04/20/2021 SS

07/06/2021 SS

07/13/2021 RCM PH

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion – Ordinance – Traffic Concurrency Review Threshold

Fiscal Note/Consideration:

N/A

ORDINANCE NO. 21-xxxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, PIERCE COUNTY, WASHINGTON, AMENDING EDGEWOOD MUNICIPAL CODE (EMC) CHAPTER 18.105, CONCURRENCY MANAGEMENT, PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City's on-call transportation engineering consultant, Transpo Group, issued their 2021 Annual Transportation Concurrency Report on March 26, 2021; and

WHEREAS, one of Transpo Group's recommendations was to update the trip threshold for concurrency evaluation listed in Edgewood Municipal Code (EMC) Chapter 18.105, revising the code to exempt developments generating fewer than 15 PM peak hour trips from the concurrency process, consistent with the City's current traffic study guidelines; and

WHEREAS, the City Council was briefed on the Annual Transportation Concurrency report at their April 6, 2021 study session, and acknowledged the recommendation; and

WHEREAS, the Planning Commission held a Public Hearing at their June 14, 2021 meeting and made a recommendation to the City Council; and

WHEREAS, the City Council considered the Planning Commission's recommendation at their July 6, 2021 study session;

WHEREAS, the City Council held a Public Hearing at their July 13, 2021 regular meeting;

WHEREAS, the City Council considered amending said code at their July 20, 2021 study session and July 27, 2021 regular meeting;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. EMC Section 18.105.030 Amended. Section 18.105.030, "Exempt development," of the EMC is hereby amended to read as shown in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5)

days after the date of publication. The full text of this Ordinance shall be mailed without charge, upon request.

PASSED BY THE CITY COUNCIL ON THE 27TH DAY OF JULY, 2021

Mayor Daryl Eiding

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

City Attorney, Ann Marie J. Soto

Date of Publication:
Effective Date:

Exhibit A
Amendments to EMC 18.105.030

18.105.030 Exempt development.

A. No development activity (as defined in EMC 18.20.070) shall be exempt from the requirements of this chapter, unless the permit is listed below. The following types of permits are not subject to the capacity reservation certificate (CRC) process because they do not create additional long-term impacts on transportation facilities:

...

Notwithstanding the above, if any of the above permit applications will ~~generate any new p.m. peak hour trips, require additional sewer capacity, or increase water consumption~~ exceed the thresholds identified in Subsection B below, such application shall not be exempt from the requirements of this chapter.

B. Transportation. This chapter shall apply to all applications for development or redevelopment, excluding an individual single-family residence, if the proposal or use will generate ~~any~~ one or more new projected vehicle trips that will pass through an intersection or roadway section identified with a level of service below the acceptable level noted in the transportation element of the city's comprehensive plan, and/or a total of fifteen (15) or more new p.m. peak-hour trips. Every application for development exceeding these thresholds shall be accompanied by a concurrency application, requiring the city to prepare a traffic report as defined in EMC 18.105.090. ~~Developments or redevelopments, excluding an individual single-family residence, that will generate one or more new projected vehicle trips that will pass through an intersection or roadway section identified with a level of service below the acceptable level noted in the transportation element in the city's comprehensive plan, or that will generate 15 or more new p.m. peak-hour trips, shall also be required to have the city prepare a traffic report as defined in EMC 18.105.090.~~



**CITY OF EDGEWOOD
PLANNING COMMISSION
RECOMMENDATION**

The Planning Commission voted 7-0 to recommend APPROVAL of the proposed code amendment to the Edgewood Municipal Code (EMC) pertaining to Traffic Concurrency Management thresholds, and to send their recommendation to the City Council for consideration.

It is the recommendation of the City of Edgewood Planning Commission to approve the drafted EMC amendments as presented in the staff report and attachments submitted by Public Works Director Jeremy Metzler for the June 14, 2021 Planning Commission agenda.

**RECOMMENDED BY THE CITY OF EDGEWOOD PLANNING COMMISSION
ON THE 14TH DAY OF JUNE 2021.**


Planning Commission Chair

Attest by:



Evan Hietpas
Associate Planner



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

05/03/2021

Mr. Jeremy Metzler
Senior Engineer / Surface Water Program Manager
City of Edgewood
2224 104th Avenue East
Edgewood, WA 98372

Sent Via Electronic Mail

Re: City of Edgewood--2021-S-2619--60-day Notice of Intent to Adopt Amendment

Dear Mr. Metzler:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under [RCW 36.70A.106](#). We received your submittal with the following description.

An amendment to the Edgewood Municipal Code (EMC) Chapter 18.105 to revise the trip threshold for concurrency evaluation to exempt developments generating fewer than 15 PM peak hour trips from the concurrency process, consistent with the City's current traffic study guidelines.

We received your submittal on 04/29/2021 and processed it with the Submittal ID 2021-S-2619. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 06/28/2021.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Anne Fritz, (360) 725-3064.

Sincerely,

Review Team
Growth Management Services



City Of Edgewood Council Agenda Summary Sheet

Subject: Discussion – 24th & Meridian Sidewalks – Change Order #6	Agenda Item #: 2.H
	For Agenda of: 7/20/2021
	Prepared by: Jeremy Metzler
Attachments (list): 1. Change Order 6	
Approval of Materials: Jeremy Metzler Rachel Pitzel 7/15/2021 Dave Gray 7/15/2021 Daryl Eidingen 7/15/2021	Expenditure Required: \$837,808.06 Amount Budgeted: \$817,683.06 Timeline: 07/20/2021 SS 07/27/2021 RCM

Summary Statement:

Construction for this grant-funded sidewalk project is currently underway. Per the contract amendment authorized under Resolution 21-0555, *"If the total Contract Amount proposed under a Change Order exceeds 120% of the Contract Amount..., the Change Order shall be reviewed and approved by the City Council prior to execution."* The attached change order exceeds this amount and is for required additional work performed by the contractor, detailed as follows: Clarify street tree species and tree grate materials, design revisions to curb grades and a stormwater structure, and removal of three existing stormwater structures no longer in use.

Item History:

02/02/2021 SS
 02/09/2021 RCM
 03/16/2021 SS
 03/23/2021 RCM
 06/01/2021 SS
 06/08/2021 RCM

Recommended Action:

Hold a discussion and provide staff guidance regarding Discussion – 24th & Meridian Sidewalks – Change Order #6

Fiscal Note/Consideration:

The original Contract Amount is \$621,356.25. The maximum allowed through Change Orders under Resolution 21-0555 is \$745,627.50, and Council authorized Change Orders 4 and 5 on June 8, 2021 for a total amount of \$817,683.06 (see Amount Budgeted, above). The new total proposed by these Change Orders is \$837,808.06 (see Expenditure Required, above). For reference, the bids received for this project range from the Contract

Amount of \$621,356.25 to a high bid of \$953,895.81.

CHANGE ORDER

Project Title 24th and Meridian Sidewalk Gaps Project
Owner City of Edgewood **Contractor Name** Reed Trucking & Excavating, Inc.
Change Order No. 6 **Contractor Address** 2207 Inter Avenue, Suite A
Puyallup, WA 98372
Change Order Date June 13, 2021
G&O No. 18626.13

The following changes are hereby made to the Contract Documents:

SCHEDULE A: MERIDIAN AVENUE EAST AND 24TH STREET EAST SIDEWALKS

ITEM 1: Street Tree Material Revisions

Install 3-inch caliper flowering plum tree and Olympic Foundry 60-inch square (STA tree grate).

The following payment items are revised:

No.	Description	Contract Quantity	Unit Contract Price	New Unit Contract Price	Contract Price Revision
51	Street Trees	3	\$2,000.00	\$3,350.00	\$4,050.00

The Contractor will be paid based on the actual quantities installed.

The estimated cost for this work is: \$4,050.00

Justification: The tree species and type of tree grate material and pattern were not specified in the bid documents. The revised work is at the request of the Contracting Agency.

Working Days: There are no changes to the Substantial and Physical Completion Contract Times.

ITEM 2: Grout Catch Basin Knockout

Repair a catch basin knockout on 24th Street East at approximate Station 50+62, 14' LT that is no longer required due to revisions in the storm sewer system resulting from a utility conflict.

The lump sum cost for this work is: \$445.00

Justification: The revised work is a result of changed site conditions resulting from a utility conflict.

Working Days: There are no changes to the Substantial and Physical Completion Contract Times.

ITEM 3: Revise Curb Grades

Revise curb grades along 24th Street East from approximate Station 50+62, to approximate Station 55+90 to provide a smooth curb profile.

The lump sum cost for this work is:\$630.00

Justification: The revised work is a result of changed site conditions resulting from road settlement along the edge.

Working Days: There are no changes to the Substantial and Physical Completion Contract Times.

ITEM 4: Removal of Storm Drainage Structures

Remove and dispose of three existing storm drainage structures located between approximate Station 102+40, 40' RT to Station 103+00, 40' RT, including approximately 425 linear feet of existing drainage pipes located at approximate Station 51+00, 15' LT to Station 52+00, 12' LT, Station 53+15, 15' LT to Station 54+20, 15' LT, Station 54+90, 15' LT to Station 55+75, 20' LT, Station 100+25, 14' RT to Station 100+45, 20' RT, and Station 102+10, 40' RT to Station 103+00, 40' RT, with sizes varying from 6 to 12 inches.

The following payment item is added to the Contract:

No.	Description	Quantity	Unit Price	Total
65A	Removal of Drainage Structures	1 LS	\$15,000.00	\$15,000.00

The lump sum cost for this work is:\$15,000.00

Justification: Removal of these items was not included in the bid documents. Since this cost was not included in the bids, this work provides added value to the Contracting Agency.

Working Days: There are no changes to the Substantial and Physical Completion Contract Times.

CHANGE TO CONTRACT PRICE

Original Contract Amount (without tax):.....\$621,356.25
Current Contract Amount, as adjusted by previous change orders:\$817,683.06
The Contract Amount due to this Change Order will be increased by:\$20,125.00
The new Contract Amount (without tax) due to this Change Order will be:\$837,808.06

CHANGE TO CONTRACT TIME

The Substantial Completion Contract Time will be increased by 0 working days, for a total of 124 working days.

The Physical Completion Contract Time will be increased by 0 working days, for a total of 184 working days.

This document will become a supplement to the Contract and all provisions in the Contract will apply hereto. The Contractor acknowledges and agrees that by executing this change order he foregoes all rights and privileges of acquiring any additional compensation for any known or unknown claims of any type or nature, to include but not be limited to, any additional work, delays, extended office overhead, design omissions, changed site conditions, or any oral directions as of the date of the execution of this change order.

GRAY & OSBORNE, INC.
(RECOMMENDED)



Date 7/13/21

**REED TRUCKING &
EXCAVATING, INC.**
(ACCEPTED)



Date 7-13-2021

CITY OF EDGEWOOD
(ACCEPTED)

Date _____