

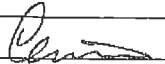
EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

COP
 Port FAX
 252-7566

PROJECT TITLE:

Authorize the Mayor to sign an Interlocal Agreement with the Port of Everett regarding combined sewer system improvements.

Initialed by:
 Department Head
 CAA
 Council President



LOCATION:

North Everett

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

 Public Works
 Dan Mathias *DM*

 259-8855

 August 16, 1995

Preceding Action:

April 27, 1988: City Council approved Combined Sewer Overflow (CSO) Control Plan for north Everett.

<input type="checkbox"/>	Consent	<input type="checkbox"/>	Second Reading
<input checked="" type="checkbox"/>	Action	<input type="checkbox"/>	Third Reading
<input type="checkbox"/>	First Reading	<input type="checkbox"/>	Public Hearing

Attachments:

Interlocal Agreement

Department(s) Approval (Identify):

Legal, Public Works

Expenditure Required	\$-0-	Account Number(s):
Amount Budgeted	\$-0-	
Additional Required	\$-0-	

SUMMARY STATEMENT:

The Port of Everett desires to discharge its stormwater runoff into the City's combined sewer system. This may be an opportunity for the City to cost - effectively implement a portion of its CSO Control Plan. This agreement will allow the City and the Port to jointly evaluate the financial and technical implications of the proposed combined sewer system improvements. The Interlocal Agreement also specifies a cost sharing formula in the event that both parties agree to proceed to design and construction. A consultant will be retained to assist in the evaluation.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Interlocal Agreement with the Port of Everett.

INTER-LOCAL COOPERATION AGREEMENT:
COMBINED SEWER SYSTEM IMPROVEMENTS

THIS AGREEMENT is made and entered into by and between the PORT OF EVERETT, hereinafter referred to as the "PORT" and the CITY OF EVERETT, a municipal corporation of the STATE OF WASHINGTON, hereinafter referred to as the "CITY"

WHEREAS, the Interlocal Cooperation Act contained in Chapter 39.34 RCW, permits any two or more public agencies to enter into agreements with one another for joint or cooperative action to perform any governmental service, activity or undertaking which each public agency entering into the agreement is authorized by law to perform; and

WHEREAS, the City and Port recognize the mutual benefits of utilizing the City's combined sewer system to treat Port stormwater; and

WHEREAS, the proposed project will reduce the impacts of stormwater runoff on Everett's receiving waters; and

WHEREAS, the proposed project is recommended in the City's CSO Control Plan previously approved by City Council on April 27, 1988.

I.

LEGAL ENTITIES

No separate legal entity will be created.

II.

DURATION

The terms of this agreement regarding construction will terminate upon final acceptance by the PORT and the CITY of combined sewer system improvements to be constructed pursuant to this agreement.

III.

PRECONSTRUCTION PHASE

A. Pre-Design Phase

The City shall retain an outside consultant to develop a pre-design report verifying necessary improvements to the City's combined sewer system to accommodate the 2.4 cubic feet per second (CFS) of stormwater runoff from the area shown in Exhibit A and to reduce combined sewer overflow events to an average of one event per year per outfall. The pre-design report shall provide a preliminary cost estimate of final design and construction.

B. Final Design

At the completion of the pre-design report the PORT and the CITY will evaluate the cost estimate in the pre-design report and notify the other party of their intention to proceed or not proceed to final design and construction. The project will not proceed to final design without prior written concurrence by both parties. If the parties do not agree to proceed, this agreement will terminate. Following completion of the pre-design report and written concurrence by both parties, the CITY will direct the consultant to provide final design services. The PORT will have any opportunity to, but will not be required to, participate in the consultant selection process.

C. Bidding

The CITY shall have responsibility for the bidding process. A mandatory pre-bid meeting will be held by the CITY, and the PORT shall be entitled, but not required, to attend. The bid documents will provide for construction of the improvements necessary to convey 2.4 cfs of PORT stormwater to 17th and Hoyt as well as combined sewage that flows to Lift Stations No. 7 and 8 agreed to between the parties.

Both the PORT and the CITY shall have the right, but no the obligation, to reject all bids for the project, for any reason whatsoever or for no reason. Notwithstanding any other provision of this agreement to the contrary, if either the PORT or the CITY rejects all bids for the project, (l) this agreement shall terminate, and all rights of the parties hereunder, except those which expressly survive termination, shall be extinguished.

IV.

CONSTRUCTION PHASE

A. Administration

The CITY shall enter the construction contract in its own name, and the PORT shall not be a party to the construction contract, nor shall any contractual relationship between the PORT and the contractor be created.

The CITY shall have responsibility for administering the construction contract including but not limited to entering into change orders, construction change directives, and the like, and determining completion dates.

The CITY will inspect in accordance with CITY standards the improvements installed for both the CITY and the PORT pursuant to the provisions of this agreement. The PORT shall be entitled, but not required, to attend regular on-site meetings as scheduled by the CITY, design professional, or contractor relating to the progress of the work.

B. Completion

The CITY shall notify the PORT when the contractor seeks establishment of dates for substantial completion, final completion and acceptance.

V.

REIMBURSEMENT

The PORT shall reimburse the CITY for all payments made by the CITY for:

- a. 50% of the costs of the pre-design report including outside consultant fees and in-house consultant management costs.
- b. Their flow proportional share of the cost of final design and construction including payments to the construction contractor, outside consultant fees, in-house construction management costs, in-house consultant management costs, legal fees, change orders, construction claims, negotiated settlements and judgments. Said "flow proportional share" shall be determined before the PORT approves construction of the Project noted above.
- c. State and local taxes on the above, if not precluded by Rule 171:

The PORT will reimburse the CITY on a monthly basis within sixty (60) days of the PORT's receipt of proof of the CITY's reasonable requests for payment. Notwithstanding any other provision of this agreement, the PORT's obligation to

reimburse the CITY pursuant to the provisions of this Article V shall survive any termination whatsoever of this agreement.

VI.

ON GOING CHARGES

The PORT shall pay \$650 per month on an on-going basis to the CITY for on-going operation and maintenance costs at Lift Station No. 7 and No. 8 as long as PORT's stormwaters is transmitted through said Lift Stations. The \$650 monthly charge will be in addition to whatever monthly charges the PORT pays as mandated by the CITY's water, sewer and stormwater rate ordinances. The \$650 monthly charged will be adjusted annually beginning on January 1, 1996 based upon the Seattle area consumer price index.

VII.

INDEMNIFICATION

- A. Subject to the following conditions, the CITY shall indemnify and hold harmless the PORT, its directors, agents and employees (Indemnitee) from and against all claims, damages, losses and expenses, direct, indirect, or consequential, including costs, expenses and attorneys' fees incurred on such claims and in proving the right to indemnification arising out of or resulting from any act or omission of the CITY, its agents, and anyone directly or indirectly employed by the CITY (Indemnitor) in connection with, arising out of, or in any way related to the CITY's role in actions, projects

and bid award procedures construction and repair and maintenance of the improvements contemplated by this agreement.

- (1) The CITY will fully indemnify for its sole negligence.
- (2) To the extent of the CITY's negligence, the CITY shall indemnify for the concurrent negligence of the CITY.
- (3) The CITY shall not indemnify for the sole negligence of the PORT.

To the extent any portion of this indemnification provision is stricken by a court or arbitrator for any reason, all remaining provisions shall retain their vitality and effect. Notwithstanding any other provision of this agreement, the provisions of this Article VI, Section A, shall survive any termination whatsoever of this agreement.

B. Subject to the following conditions, the PORT shall indemnify and hold harmless the CITY, its directors, agents and employees (Indemnitee) from and against all claims, damages, losses and expenses, direct, indirect, or consequential, including costs, expenses, and attorneys' fees incurred on such claims and in providing the right to indemnification, arising out of or resulting from any act or omission of the PORT, its agents, and anyone directly or indirectly employed by the PORT (Indemnitor) in connection with, arising out of, or in any way related to the PORT's role in actions and projects contemplated by this agreement.

- (1) The PORT shall fully indemnify for its sole negligence.
- (2) To the extent of the PORT's negligence, the PORT shall indemnify for the concurrent negligence of the PORT.
- (3) The PORT shall not indemnify for the sole negligence of the CITY.

To the extent any portion of this indemnification provision is stricken by a court or arbitrator for any reasons, all remaining provisions shall retain their vitality and

effect. Notwithstanding any other provision of this agreement, the provisions of this Article VI, Section B, shall survive any termination whatsoever of this agreement.

VIII.

AMENDMENT

This agreement shall not be amended except by express written agreement signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement by the respective officers there and to duly authorized on this ___ day of _____, 1995.

CITY OF EVERETT

Mayor


Attest:

City Clerk

Approved as to Form:

City Attorney

PORT OF EVERETT



Michael Deller, Port Director

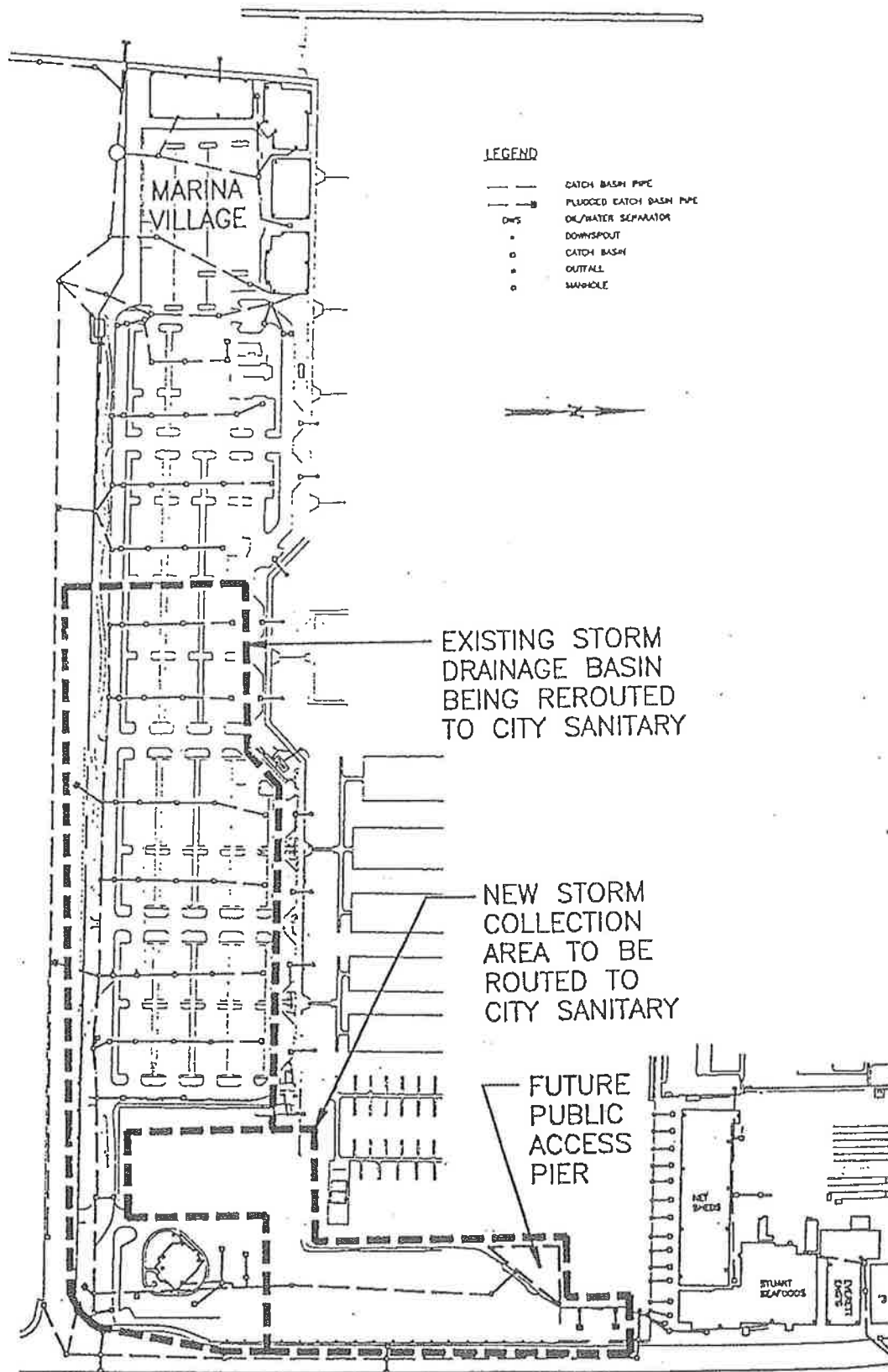


EXHIBIT A



PROJECT NAME: PORT OF EVERETT
 EXISTING AND NEW
 STORM WATER TO SANITARY SYSTEM

DES.: BG
 DR.: WAC
 CHK.: DC

SCALE: 1" = 300'
 DATE: 7/18/95
 FILE NO.: 2403016

Year	Cost	CPI
2000	\$ 400.00	3.7%
2001	\$ 415.00	3.6%
2002	\$ 430.00	1.9%
2003	\$ 439.00	1.6%
2004	\$ 447.00	1.2%
2005	\$ 453.00	2.8%
2006	\$ 466.00	3.7%
2007	\$ 484.00	3.9%
2008	\$ 503.00	4.2%
2009	\$ 525.00	0.6%
2010	\$ 529.00	0.3%
2011	\$ 531.00	2.7%
2012	\$ 546.00	2.5%
2013	\$ 560.00	

Section 4

- Adjustment to recurring charge.

