



**Project title:** Professional Services Agreement with Brown & Caldwell for Owner Advisor services related to procurement of a Progressive Design-Build contractor for Reservoir 3 structural repairs.

### City Council Agenda Item Cover Sheet

**Council Bill #** *interoffice use*

**Agenda dates requested:**

July 8, 2020

Briefing

Proposed action

Consent

Action

Ordinance

Public hearing

Yes  No

**Budget amendment:**

Yes  No

**PowerPoint presentation:**

Yes  No

**Attachments:**

PSA

**Department(s) involved:**

Public Works

**Contact person:**

John Nottingham

**Phone number:**

425.257.8844

**Email:**

jnottingham@everettwa.gov

**Initialed by:**

Department head

Administration

  
Council President

**Consideration:** Professional Services Agreement

**Project:** Reservoir 3 Cover Repairs

**Partner/Supplier:** Brown & Caldwell, Inc.

**Location:** Reservoir #3, 6107 Berkshire Rd.

**Preceding action:** Structural Design PSA w/ CG Engineering (approved 11/27/19)

**Fund:** 401

**Fiscal summary statement:**

The cost of this Professional Services Agreement will be \$99,668 and the source of funds will be Fund 401, the Water/Sewer Utility Fund.

**Project summary statement:**

Reservoir 3 is a critical component of the City's water distribution system. The 20-million-gallon reservoir serves as a primary distribution hub that distributes water to Alderwood Water District, the City's Evergreen Pump Station, and many local customers in the south side of Everett

A detailed structural inspection of the reservoir was performed in 2019. The inspection highlighted multiple structural repairs and recommended the City proceed with the repairs within the short term. A design of the repairs began in late 2019.

As the design of the repairs progressed, it became clear from the extent of the needed repairs and the logistics of limiting reservoir downtime during construction that it would be best to complete this project under an alternative delivery method. Thus, the design will be completed, and the project will be constructed under the Progressive Design Build delivery method. The Progressive Design Build best protects the interests of the City by limiting risk and increasing opportunity for collaboration and cooperation with the contractor team.

This PSA is for consulting services to assist the City in developing a standard form contract for Progressive Design Build (PDB) Delivery, securing state approval to use PDB delivery for the project, and developing the RFQ and RFP documents for the procurement of a PDB contractor.

**Recommendation (exact action requested of Council):**

Authorize the Mayor to sign the Professional Services Agreement with Brown & Caldwell for Owner Advisor services related to procurement of a Progressive Design-Build contractor for Reservoir 3 structural repairs.

**CITY OF EVERETT**  
**PROFESSIONAL SERVICES AGREEMENT**



**THIS AGREEMENT** made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the “City,” and **BROWN & CALDWELL**, whose address is 701 PIKE STREET, SUITE 1200, SEATTLE, WA 98101-2310, hereinafter referred to as the “Service Provider.”

**WHEREAS**, the City desires to engage the Service Provider to PROVIDE DESIGN-BUILD CONSULTING SERVICES FOR PROJECTS AT RESERVOIR 3 for the City of Everett; and

**WHEREAS**, Service Provider represented, and by entering into this Agreement now represents, that it is fully qualified to perform the work to be performed hereunder in a competent and professional manner;

**NOW, THEREFORE**, the parties herein do mutually agree as follows:

1. **Engagement of Service Provider.** The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as “Work”. Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider’s proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider’s design shall be reasonably accurate, adequate and suitable for its intended purpose, all in accordance with prevailing professional and industry standards in the Puget Sound region.
2. **Intellectual Property Rights.** Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Any reuse by the City of these reports, drawings, plans, specifications and intangible property for purposes other than in connection with the Work is at the sole risk of the City. Unless otherwise expressly agreed in writing, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
3. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of execution of this Agreement and shall be completed by DECEMBER 31, 2021.

#### 4. **Compensation.**

A. The City shall pay the Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.

B. The Service Provider shall be paid such amounts and in such manner as described in Exhibit B.

C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those types and amounts of expenses either listed in Exhibit C or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. If Exhibit C is either blank or not attached, expenses may not be reimbursed unless prior written approval was obtained from the City. An expense shall not be reimbursed if: (1) the expense is not identified in Exhibit C; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified in Exhibit C; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

D. Total compensation, including all services and expenses, shall not exceed a maximum of NINETY-NINE THOUSAND SIX HUNDRED SIXTY-EIGHT Dollars (\$99,668).

E. If Service Provider fails or refuses to correct its work when so directed by the City and when such work is, in the reasonable determination of the City, not in accordance with this Agreement, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

#### 5. **Method of Payment.**

A. To obtain payment, the Service Provider shall (a) file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment; (b) submit a report of Work accomplished and hours of all tasks completed; (c) to the extent reimbursement of Eligible Expenses is sought, submit itemization of such expenses and, if requested by the City, copies of receipts and invoices; and (d) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days.

B. All requests for payment should be sent to:

City of Everett  
Attn.: RANDY LOVELESS, P.E.  
3200 CEDAR STREET  
Everett, WA 98201

6. **Submission of Reports and Other Documents.** The Service Provider shall submit all reports and other documents as and when specified in Exhibit A. Said information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.

7. **Termination of Contract.** City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least fourteen (14) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by fax, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as fax. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

8. **Changes.** The City may, from time to time, unilaterally change the scope of the services of the Service Provider to be performed hereunder. Such changes, including any increase or decrease in the scope of work (and resulting increase or decrease in compensation), shall: (a) be made only in writing and signed by an authorized City representative, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.

9. **Subletting/Assignment of Contracts.** Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.

10. **Indemnification.** To the extent of the Service Provider's fault, breach of this Agreement, willful misconduct, or violation of law, the Service Provider hereby agrees, except as otherwise provided in this Section 10, to defend and indemnify the City from any and all Claims arising out

or relating to the performance of this Agreement by Service Provider (or by its employees, agents, representatives or subcontractors/subconsultants), whether such Claims sound in contract, tort, or any other legal theory. The Service Provider is obligated to defend and indemnify the City pursuant to this Section 10 whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. The Service Provider's duty to defend and indemnify pursuant to this Section 10 is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of the Service Provider. The Service Provider's obligations under this Section 10 shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) the Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then the Service Provider's obligations under this Section 10 shall apply only to the extent allowed by RCW 4.24.115. Solely and expressly for the purpose of its duties to indemnify and defend the City, the Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section 10: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify the City to the extent and on the same terms and conditions as the Service Provider pursuant to this Section 10.

## 11. **Insurance.**

A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the following policies of insurance with companies authorized to do business in the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.

1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Service Provider shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Service Provider covers such employees.

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

4. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Such coverage may be written on a claims made basis. If both parties agree that the Work does not warrant Service Provider providing Professional Errors and Omissions Insurance, this Section 11.A.4 may be stricken and initialed by both parties.

B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Service Provider to furnish the required insurance during the term of this Agreement.

C. Upon written request by the City, the insurer or his/her agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.

D. Prior to the Service Provider performing any Work, Service Provider shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Service Provider's obligations to fulfill the requirements.

E. If the policy listed in Section 11.A.4. above, Professional Errors and Omissions Insurance, is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy. (This Section 11.E shall not apply if Section 11.A.4. above is stricken.)

F. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

G. In case of the breach of any provision of this Section 11, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of the Service Provider, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.

## 12. Independent Contractor.

A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section 12. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.

B. In addition to the other requirements of this Section 12, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:

(1) Service Provider is free from control or direction over the performance of the service; and

(2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and

(3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and

(4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and

(5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.

C. Any and all employees of the Service Provider, while engaged in the performance of any Work, shall be considered employees of only the Service Provider and not employees of the City.

The Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of said employees or Service Provider, while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Service Provider's employees, while so engaged on any of the Work

D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of said act, and rules and regulations that are or may be promulgated in connection therewith.

E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and, city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Service Provider and as to all duties, activities and requirements by the Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

**13. Employment.** The Service Provider warrants that he had not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure this Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**14. Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, the Service Provider shall make available to the City for the City's examination all of the Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, the Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

**15. City of Everett Business License.** Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

**16. State of Washington Requirements.** Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.

17. **Compliance with Federal, State and Local Laws.** Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.

18. **Compliance with the Washington State Public Records Act.** Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section 18.

19. **Compliance with Grant Terms and Conditions.** Service Provider shall comply with any and all conditions, terms and requirements of any federal, state or other grant that wholly or partially funds Service Provider's work hereunder.

20. **Equal Employment Opportunity.** Service Provider shall not discriminate against any employee, applicant for employment, independent Service Provider, or proposed independent Service Provider, on the basis of race, color, religion, sex, age, disability, marital state, or national origin.

21. **Waiver.** Any waiver by the Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.

22. **Complete Agreement.** This Agreement contains the complete and integrated understanding and Agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.

23. **Modification of Agreement.** This Agreement may be modified as provided in ¶8, or by a writing explicitly identified as a modification of this Agreement that is signed by authorized representatives of the City and the Service Provider.

24. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.

25. **Notices.**

A. Notices to the City of Everett shall be sent to the following address:

City of Everett  
Attn.: RANDY LOVELESS, P.E.  
3200 CEDAR STREET  
Everett, WA 98201

B. Notices to the Service Provider shall be sent to the following address:

TADD GIESBRECHT, P.E.  
701 PIKE STREET, SUITE 1200  
SEATTLE, WA 98101-2310

26. **Venue.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.

27. **Governing Law.** The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.

28. **Signature.** At the sole discretion of the City, the City may consent to the Service Provider's signature on this Agreement or amendment thereof being by email, fax, photocopy, pdf or other electronic means, in which case such Service Provider signature will be deemed an original signature for all purposes. The City will be deemed to have given such consent effective upon execution of this Agreement or amendment thereof by the Mayor of the City.

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement as of the date first above written.

**CITY OF EVERETT,  
WASHINGTON**

\_\_\_\_\_  
Cassie Franklin, Mayor

\_\_\_\_\_  
Date

ATTEST:

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

\_\_\_\_\_  
Date





## EXHIBIT A: SCOPE OF WORK

### CITY OF EVERETT RESERVOIR 3 COVER REPAIRS Progressive Design-Build Consulting Services

#### INTRODUCTION

The City of Everett (City) owns and operates a water distribution system that serves more than 615,000 customers. Reservoir 3 is a 20-million-gallon water reservoir that was originally constructed as an open-air reservoir in 1923 and subsequently covered with a concrete roof structure in 1987. The concrete structure covering the reservoir, which serves as the primary hub for much of the water distribution network, is in need of repair. A detailed structural inspection and preliminary design for the repairs has been completed, and the City is working toward beginning construction of repairs inside the reservoir in September 2021.

Due to the complex nature of the repair project, the City has elected to use a Progressive Design-Build (PDB) delivery method (possibly design-build with cost plus fixed fee and guaranteed maximum price) to complete the work given the uncertainty of the extent of necessary repairs.

This scope of work describes Brown and Caldwell's (Consultant) consulting services as an Owner Advisor for the procurement phase of the project. The Consultant will support the City's efforts to obtain Capital Projects Advisory Review Board (CPARB) approval, develop a contract for Progressive Design Build delivery, and to procure a Design-Build firm.

#### SCOPE SUMMARY

- Support for obtaining CPARB Project Review Committee (PRC) approval
- PDB RFQ preparation
- Assist / advise the City on short-listing PDB firms
- PDB RFP preparation, including preparation of performance and technical requirements
- Assist / advise the City on selection of a preferred PDB contractor
- Assist the City in contract negotiations

#### GENERAL ASSUMPTIONS

Overall assumptions for the scope of work include:

- **CPARB – PRC Application:** The City will provide background information required to complete the CPARB – PRC Project application form, including City project and staff experience, financial/funding information, technical information, and history of audits findings. The City will take the lead on preparing the application, with input and review from the Consultant. The Consultant will prepare graphics needed to communicate the scope the proposed project to CPARB and will provide information relevant to their firm's experience and qualifications.
- **Legal:** The City has not used the PDB process and therefore needs to develop a contract appropriate to the delivery method. The City will develop the PDB contract, using the City's standard Design-Build contract as a starting point, and provide legal review. The Consultant

will provide sample contract language and will provide input on the contract documents as the City develops them. Legal review and any special legal counsel, if needed, will be retained by the City's legal department and are not included in this agreement.

- **Drawings / Inspection Reports:** The City will furnish record drawings, pre-design drawings, and a structural inspection report. No effort is included to prepare or verify information contained within these drawings and reports. It is also assumed the City will provide pertinent operational data and any additional pertinent information about Reservoir 3 and that no additional condition assessment or structural inspection will be required.
- **Schedule:** The scope of work and estimate for Consultant services assumes the following approximate schedule:

○ Contract between City and Consultant Finalized	Mid July, 2020
○ Application to CPARB PRC	8/20/20
○ CPARB Review Board	9/24/20
○ Announce RFQ	Mid October, 2020
○ Shortlist Teams	Early November 2020
○ PDB Team Selection	Early January 2021
○ Start Construction	Summer/Fall 2021*

\*work that involves having the reservoir offline must be done before May 1 and after September 15.

- **Reproduction:** The scope assumes the City will make all copies required for issuing the RFQ and RFP.
- **Special Inspections:** The scope assumes the City will contract directly for special inspection services.

Because the type of services required under this contract are likely to evolve over the course of the Project, this Scope of Work includes an additional allowance task (Task 7) to provide additional services requested by the City.

## TASK DESCRIPTIONS

### Task 1 Project Management, FEE = \$10,918

**Objective.** To manage and coordinate the Consultant's work with work conducted by the City, provide monthly progress reporting, and alert the City to issues that have the potential to adversely affect Project budget and schedule, and provide quality reviews of Consultant work products.

**Scope:** Project Management services include:

1. Develop an overall schedule for development of the Project (through closeout of the selected PDB contractor's work) that reflects the selected procurement strategy for the Project. A draft of the schedule will be developed for discussion during the procurement strategy workshop following CPARB – PRC approval.
2. Prepare monthly Project status reports with submittal of progress payment invoices. Progress reports will identify budget status, progress status, activities of the previous month, upcoming activities, and areas of risk with the potential to adversely affect Project budget and / or schedule.

3. As needed, procure and coordinate the activities of subconsultants providing specialized services. Any subconsultant work identified will be funded from Task 7 - Additional Services during Procurement, Design and Construction Phases.
4. Conduct QA reviews of Consultant deliverables.

**Deliverables:**

- Project Development Schedule
- Monthly progress reports (assume 6) and invoices

**Task 2 CPARB Approval Process, FEE = \$10,122**

**Objective:** To support the City in securing approval from the CPARB Project Review Committee (PRC).

**Scope:**

This scope is based on the City taking the lead to secure PRC approval, and preparing the draft and final CPARB applications. The budget for this scope is set at a \$10,000 allowance to engage in support activities requested by the City such as:

1. **Application:** Attendance at meetings in Everett with the City to discuss information gaps and the overall approach taken in the City's preliminary application. Review the City's final application prior to the City submitting the document to the PRC. Provide supplemental project graphics that are needed to sufficiently communicate the nature of the project to the PRC.
2. **PRC Presentation:** Assist the City by preparing presentation materials and participate in the PRC project review meeting.

**Deliverables (as requested by the City):**

- Review draft and final PRC applications
- Project graphics to be used in application and presentation
- Review and assist with City's development of PRC presentation materials

**Task 3 Procurement Strategy Workshop / Follow-up with Legal Department, FEE = \$10,620**

**Objective:** To establish an overall approach to the procurement process and to the structuring of the progressive DB work.

**Scope:**

The Consultant will participate in a 2-hour workshop with City staff to establish the overall approach and framework for the procurement and for structuring the work to be completed by the Design-Builder. During the workshop, the City and Consultant will prepare materials to support the procurement process including schedule; RCW 39.10 PDB procurement compliance checklist; and draft term sheet describing contract terms such as payment, warranties and guarantees, liquidated damages and incentives. The scope assumes the City will provide meeting space for the workshop.

Following the workshop, the Consultant will prepare a summary of decisions to guide development of the RFQ and RFP.

Under this task, the Consultant will also provide technical input to the City's legal staff regarding PDB procurement and PDB contract issues.

**Deliverables:**

- Workshop presentation / support materials including agenda, procurement schedule, draft risk allocation matrix, and draft term sheet
- Attendance at one, 2-hour workshop in the Everett area by up to 3 Consultant staff
- Workshop decision summary

**Task 4 PDB RFQ and Shortlisting, FEE = \$20,214**

**Objective:** To develop an RFQ designed to maximize interest in the Project by qualified PDB teams and to assist the City determining a short-list of firms

**Scope:**

Consistent with RCW 39.10 and the outcomes of the procurement strategy workshop, the Consultant will prepare an RFQ that establishes SOQ submittal requirements, minimum required qualifications, and criteria for evaluating and ranking SOQs. Prior to developing the draft RFQ, it is assumed that the City will contact potential PDB proposers to determine interest and issues of concern to Proposers. The Consultant will then prepare a draft RFQ and term sheet (revised as needed following the procurement strategy workshop) for City review, revise the draft in response to City comments, and provide a final RFQ to the City. The scope assumes the City will advertise and issue the RFQ, and will coordinate these activities through the City's procurement department as needed.

The Consultant will review and provide input to the City on SOQs with specific focus on: 1) any respondents who appear to have failed to meet minimum submittal or qualifications requirements; 2) demonstrated qualifications addressing the RFQ criteria; and 3) commercial or technical concerns raised by respondents. Consultant comments on each SOQ will be provided in matrix form to the City. The scope assumes up to 5 SOQs will be submitted and reviewed by the Consultant. The scope further assumes that the Consultant will attend up to one meeting in Everett to support the City's SOQ review team, and that the City will take the lead in contacting / interviewing respondents' references.

**Deliverables:**

- Draft and final PDB RFQs
- Matrix summarizing Consultant's review on up to 5 SOQs
- One meeting in Everett (to review draft RFQ comments and during review of SOQs)

**Task 5 PDB RFP and Contractor Selection, FEE = \$32,749**

**Objective:** To develop an RFP that describes submittal requirements, RFP criteria, Project technical and performance requirements, and the City's proposed terms for the Progressive Design-Build contract; and to assist the City in selecting a PDB firm for the Project.

**Scope:**

The Consultant will prepare an RFP that describes submittal requirements, RFP evaluation criteria, Project technical and performance requirements, and key contract / commercial terms for the Project. It's assumed that this will be a streamlined RFP focused on cost and other select requirements. Furthermore, it's assumed that the City will provide scope of work requirements to incorporate into the RFP.

It is assumed that technical and performance requirements will address structural modifications and repairs, selective demolition; site work; coatings; protection of existing facilities; coordination requirements; design and permitting including adherence to Department of Health regulations; testing; and schedule including integration with the City's overall water supply / treatment constraints.

Commercial requirements will include items such as acceptance and closeout; liquidated damages; incentives (if any); and warranties / guarantees.

It is assumed that 2 drafts and one final RFP will be prepared and that the Consultant will attend up to two meetings in Everett to discuss comments on the RFP drafts. In addition, it is assumed that the City will develop a set of contract documents for Progressive Design-Build with technical input from the Consultant. Legal counsel is outside the scope of this agreement. It is also assumed that the City will administer the advertisement and bid period process. The scope includes attendance at one pre-bid meeting by the Consultant and support in preparing one addendum responding to proposer questions. To the extent that technical support is required (such as geotechnical support or input from materials specialty firms); this work will be considered additional services (Task 7).

The Consultant will review and provide input to the City on Proposals with specific focus on: 1) any proposers who appear to have failed to meet proposal submittal requirements; 2) demonstrated ability to meet the RFP criteria; and 3) commercial or technical concerns raised by respondents. Consultant comments on each proposal will be provided in matrix form to the City. The scope assumes up to 3 proposals will be submitted and reviewed by the Consultant. The scope further assumes that the Consultant will attend up to two meetings in Everett to support the City's proposal review team, and that the City will take the lead in interviewing proposers.

**Deliverables:**

- Preliminary draft, draft and final Progressive Design-Build RFP
- Up to one RFP addendum
- Up to 3 proposal review matrices
- Five meetings in Everett (one pre-bid meeting, two during RFP preparation; two during proposal reviews / interviews)

**Task 6 Additional Services, FEE = \$15,045**

Task 4 is a \$15,045 budget reserve to provide additional support as requested by the City. Consultant will utilize the budget contained in Task 7 only upon written direction from the City.

**EXHIBIT B  
COMPENSATION**

**ALTERNATE A [HOURLY RATE UP TO A MAXIMUM AMOUNT]**

The City shall pay the Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified herein for the staff performing the Work, subject to the maximum stated in ¶4(D) of this Agreement.

<b>Name</b>	<b>Responsibility</b>	<b>Rate</b>
SEE EXHIBIT B-1		

**ALTERNATE B [LUMP SUM]**

The City shall pay Service Provider \_\_\_\_\_ dollars (\$) upon the completion of the Work, subject to the maximum stated in ¶4(D) of this Agreement.

**ALTERNATE C [PROGRESS PAYMENTS]**

The City shall pay the Service Provider the following amounts upon the completion of the following tasks, subject to the maximum stated in ¶4(D) of this Agreement:

<b>Task</b>	<b>Amount Paid upon Completion of Task</b>

**ALTERNATE D [BASE REGISTRATION]**

The City shall pay the Service Provider such amounts and in such manner as follows:  
 Fee for service shall be \_\_\_\_\_ percent \_\_\_\_\_ % of the base registration fees collected by the City.  
 Additional fees and/or surcharges levied by the City will be retained 100% by the City.  
 Payments shall be made as stated in Exhibit A – Scope of Work. The base registration fee is listed in Exhibit A – Scope of Work. Compensation shall not exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_).

# EXHIBIT B-1

Phase	Phase Description	Farrell, Kathleen A	Giesbrecht, Tadd C	Tangora, Patricia A	Dickerson, Jessica L	Pare, Wendy M	Wilson, Joanna B	Mantz, Robert E	Weber, Patrick C	Total Labor Hours	Total Labor Effort	Total Expense Effort (Company Vehicles)	Total Effort
		PA	PM	Owner's Advisor SME	Owner's Advisor Specialist	Word Processing	Biller	Structural Engineer	Project Engineer				
		\$88.84	\$295.00	\$295.00	\$138.58	\$116.04	\$78.10	\$246.09	\$211.41				
<b>100</b>	<b>PROCUREMENT TOTAL</b>												
110	Project Management	18	30	0	0	0	6	0	0	54	10,918	0	10,918
120	CPARB Approval Process	0	17	17	0	0	0	0	0	34	10,030	92	10,122
130	Procure Strategy Workshop	0	18	18	0	0	0	0	0	36	10,620	0	10,620
140	DB RFQ and Shortlisting	4	10	12	40	4	0	4	30	104	20,180	35	20,214
150	DB RFP and Contractor Se	8	12	16	60	8	0	24	40	168	32,577	173	32,749
	<b>PROCUREMENT TOTAL</b>	<b>30</b>	<b>87</b>	<b>63</b>	<b>100</b>	<b>12</b>	<b>6</b>	<b>28</b>	<b>70</b>	<b>396</b>	<b>84,324</b>	<b>299</b>	<b>84,623</b>
<b>100</b>	<b>ALLOWANCE TASKS</b>												
160	DB Contract Negotiations	0	0	0	0	0	0	0	0	0	0	0	0
170	Additional Services	0	25	26	0	0	0	0	0	51	15,045	0	15,045
	<b>ALLOWANCE TOTAL</b>	<b>0</b>	<b>25</b>	<b>26</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>51</b>	<b>15,045</b>	<b>0</b>	<b>15,045</b>

**EXHIBIT C**  
REIMBURSABLE EXPENSES

<b>Type of Expense</b>	<b>Maximum Per Item</b>	<b>Cumulative Maximum</b>
Parking	SEE EXHIBIT B-1	
Meals		

**STATE RETIREMENT SYSTEMS FORM**  
**ATTACHMENT TO PROFESSIONAL SERVICES AGREEMENT**  
**ALL SERVICE PROVIDERS MUST COMPLETE AND SIGN THIS FORM**

1. Does Service Provider have twenty-five (25) or more employees?  Yes  No

IF YES: SKIP QUESTION 2, SKIP QUESTION 3, AND SIGN BELOW.

IF NO: ANSWER QUESTIONS 2 AND 3.

2. If a Service Provider employee will perform Work under this Professional Services Agreement, did that employee retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

3. Answer the appropriate question below for Service Provider's business organization:

Sole Proprietor. Did Service Provider retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

Partnership. If a partner will perform Work under this Professional Services Agreement, did that partner retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

Limited Liability Company. If a member will perform Work under this Professional Services Agreement, did that member retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

Corporation. If a shareholder will perform Work under this Professional Services Agreement, did that shareholder retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

**IF THERE IS A "YES" ANSWER TO ANY PART OF QUESTIONS 2 OR 3, AN ADDITIONAL QUESTIONNAIRE (AVAILABLE FROM HR OR LEGAL) MUST BE FILLED OUT AND SUBMITTED WITH THE CONTRACT.**

Service Provider Name: Brown and Caldwell, Inc.

Signature: Stephen B. Anderson Printed Name: Stephen Anderson Title: Sr. VP