Memorandum of Agreement #15-188-A
Between
The City of Seattle,
The City of Tacoma,
And
The City of Everett
For
Water Shortage Campaign

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made by and between the City of Seattle ("Seattle"), acting through its Seattle Public Utilities Department ("SPU"), The City of Tacoma (Tacoma) and The City of Everett ("Everett"), all a municipal corporation of the State of Washington. Seattle, SPU, Tacoma, and Everett may also be referred to in this Agreement as "Party" or, collectively, as "Parties."

1. RECITALS.

WHEREAS, SPU has activated its Water Shortage Contingency Plan which calls for public education messaging to reduce water usage among customers; and

WHEREAS, SPU, Tacoma, and Everett have agreed to co-sponsor a water shortage campaign with public service announcements for public education messaging to reduce water usage among customers during activation of their Water Shortage Contingency Plans; and

WHEREAS, this campaign may have multiple segments as the messages become more specific and the demand for decreased water use increases; and

WHEREAS, this Agreement will provide for cost reimbursement to SPU for shared services rendered on behalf of this campaign; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performances contained herein, the PARTIES agree as follows:

2. TERM OF AGREEMENT.
The work contemplated by this Agreement began on August 1, 2015. The Parties intend that the commencement date of this Agreement shall be retroactively applied back to that date. This Agreement shall end on March 31, 2016, unless amended by written agreement or terminated earlier pursuant to the provisions hereof.

3. STATEMENT OF WORK.
SPU has hired Rich Marketing ("Consultant") to plan, develop, negotiate and finalize add placements for each TV and Radio station.

SPU shall coordinate these efforts with Tacoma and Everett as it pertains to their ongoing participation in these outreach efforts.

Tacoma and Everett shall be allowed to review and approve all joint messages, strategies and agreed to media buys.
4. BILLING AND PAYMENT.
Tacoma and Everett agree to reimburse SPU for a portion of the Water Shortage Campaign including Ad Buys and Consultant costs. The estimated total cost is ($282,224).

Tacoma and Everett will each reimburse SPU up to the total not to exceed amounts listed below per ad buy.

<table>
<thead>
<tr>
<th>Agency</th>
<th>1st Ad Buy</th>
<th>2nd Ad Buy</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tacoma</td>
<td>$13,526</td>
<td>$28,516</td>
<td>$42,042</td>
</tr>
<tr>
<td>Everett</td>
<td>$13,526</td>
<td>$28,516</td>
<td>$42,042</td>
</tr>
</tbody>
</table>

SPU will invoice at the completion of each ad run. The Parties will make payment within 30 days of receipt of the invoice.

<table>
<thead>
<tr>
<th>SPU Invoices shall include:</th>
</tr>
</thead>
<tbody>
<tr>
<td>o Invoice Date and Invoice Number</td>
</tr>
<tr>
<td>o The SPU Agreement Manager: Cornell Amaya</td>
</tr>
<tr>
<td>o Agreement #15-188-A</td>
</tr>
<tr>
<td>o Agreement Title: Water Shortage Campaign</td>
</tr>
<tr>
<td>o Period covered by the invoice</td>
</tr>
<tr>
<td>o Copies of Vendor invoices and/or applicable reports</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tacoma Invoices will be submitted to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heather Dewey</td>
</tr>
<tr>
<td>3628 S. 35th St.</td>
</tr>
<tr>
<td>Tacoma, WA 98409</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Everett Invoices will be submitted to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marla Carter</td>
</tr>
<tr>
<td>Everett Public Works</td>
</tr>
<tr>
<td>3200 Cedar Street</td>
</tr>
<tr>
<td>Everett, WA 98201</td>
</tr>
</tbody>
</table>

5. COORDINATION AND REPORTING.
The principal points of contact for the Agreement are as follows:

<table>
<thead>
<tr>
<th>Agency</th>
<th>Contact Name</th>
<th>Title</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seattle</td>
<td>Cornell Amaya</td>
<td>Contract Manager &amp; Marketing / Customer Service Liaison</td>
<td><a href="mailto:Cornell.amaya@seattle.gov">Cornell.amaya@seattle.gov</a></td>
</tr>
<tr>
<td>Tacoma</td>
<td>Nora Doyle</td>
<td>Community Relations Specialist</td>
<td><a href="mailto:ndoyle@ci.tacoma.wa.us">ndoyle@ci.tacoma.wa.us</a></td>
</tr>
<tr>
<td>Everett</td>
<td>Marla Carter</td>
<td>Public Works Public Information &amp; Education Manager</td>
<td><a href="mailto:mcarter@everettwa.gov">mcarter@everettwa.gov</a></td>
</tr>
</tbody>
</table>

6. NO JOINT UNDERTAKING.
Nothing in this Agreement shall be construed to make or render the Parties hereto partners, joint ventures or participants in any joint undertaking whatsoever.
7. SCHEDULE.
   The Parties shall promptly and regularly notify each other of any occurrences affecting the schedule and shall attempt to agree upon an amended schedule if necessary or appropriate, to be effective upon execution of an amendment to this Agreement.

8. NO THIRD-PARTY BENEFICIARIES.
   This Agreement is entered into solely for the mutual benefit of the Parties hereto. This Agreement is not entered into with the intent that it shall benefit the Parties’ agents, assigns, consultants or contractors, and no such other person or entity shall be a third-party beneficiary of this Agreement.

9. PUBLICATION.
   Each Party may publish the results of the Project, and may acknowledge its respective role in and support of the Project.

10. INDEMNIFICATION.
    To the extent permitted by applicable law, the Parties mutually release, indemnify, hold harmless and shall defend each other, its officers, employees and agents from and against any and all losses, liabilities, claims (including claims arising under federal, state or local environmental laws), costs (including attorneys’ fees), actions or damages of any sort whatsoever arising out of the Parties’ performance of the services contemplated by this Agreement to the extent attributable to the negligent acts or omissions, willful misconduct or breach of this Agreement by the Parties. In furtherance of these obligations, the Parties mutually waives any immunity they may have or limitation on the amount or type of damages imposed under any industrial insurance, worker’s compensation, disability, employee benefit or similar laws. The Parties acknowledge that the foregoing waiver of immunity was mutually negotiated.

11. ASSIGNMENT.
    This Agreement shall not be assigned in whole or in part by any of the Parties without the prior written approval of the other Parties. The Parties agree that such approval will not be unreasonably withheld.

12. COMPLIANCE WITH LAW.
    The Parties to this Agreement shall comply with all Federal, State, and local laws and ordinances.

13. DEFAULT AND TERMINATION.
    Failure to keep or perform any term or condition of this Agreement shall be a default hereunder (“Default”). Upon a Default, the aggrieved Party shall provide written notice to the defaulting Party, specifying the nature of the Default, and the aggrieved Party’s intention to terminate this Agreement if the Default is not corrected within thirty (30) days of the date of the notice. If the defaulting Party fails to cure within the stated period, the aggrieved Party may thereafter terminate this Agreement without any further proceedings. The aggrieved Party will have available to it all remedies provided at law and equity.

**TERMINATION FOR CONVENIENCE**
Each Party may terminate this Agreement upon ten (10) days' prior written notification to the other Party. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
14. PARTIES' ABILITY TO TERMINATE DUE TO LACK OF APPROPRIATIONS.

It is understood that funds for the payment of the services to be provided under this Agreement are allocated out of monies received by the Parties from tax sources and/or other governmental entities, and that funding for the services to be provided under this Agreement may by decreased or eliminated by executive or legislative action. Therefore, the Parties agree that notwithstanding any other provision of this Agreement, if funding for services and/or work provided pursuant to this Agreement is decreased or eliminated, or if in the judgment of the executive or legislative authority of the Parties, continuation of this Agreement would be an unnecessary expenditure of public funds, then the Parties may terminate this Agreement without further obligation to each other after providing written notice of such termination at least thirty (30) days prior to the effective date of termination and documentation of such executive or legislative action.

15. SEVERABILITY.

If any provision of this Agreement or any provision of any law, rule or document incorporated by reference into this Agreement shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which legally can be given effect without the invalid provision. To this end, the provisions of this Agreement are declared to be severable.

16. APPLICABLE LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The jurisdiction and venue of any action brought pursuant to this Agreement shall be in the Superior Court of King County.

17. AUDIT.

During the progress of the Project and for a period of no less than three (3) years from the Completion Date, each Party will keep and make available for each other's inspection and audit all records pertaining to the Project, including accounting records. The Parties shall furnish to each other copies of these records upon request and shall maintain the records in accordance with work order accounting procedures prescribed by the Division of Municipal Corporations of the State Auditor's Office.

18. AMENDMENT.

This Agreement shall not be amended or modified except in writing and signed by all Parties.

19. ENTIRE AGREEMENT.

This Agreement and any written Exhibits, Attachments or Amendments thereto, constitutes the complete contractual agreement of the Parties and any oral representations or understandings not incorporated herein are excluded.

20. WAIVER.

A failure by Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing signed by an authorized representative of the Party and attached to the original Agreement.
21. COUNTERPARTS
This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, in consideration of the terms, conditions and covenants contained herein, or attached and incorporated and made a part hereof, the Parties have executed this Agreement by having their representatives affix their signatures below.

CITY OF TACOMA

By ___________________________ Date ___________________________
Signature
Linda McCrea, Water Superintendent

Approved as to Form:

By ___________________________ Date ___________________________
Signature
William C. Fosbre, Chief Deputy City Attorney

THE CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES

By ___________________________ Date ___________________________
Signature
Karen Reed, Deputy Director
Corporate Communications

THE CITY OF EVERETT

By ___________________________ Date ___________________________
Signature
Ray Stephanson, Mayor
Finance Director
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By___________________________________________
Signature                                       Date

Linda McCrea, Water Superintendent

Approved as to Form:

By___________________________________________
Signature                                       Date

William C. Fosbre, Chief Deputy City Attorney

THE CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES

By___________________________________________
Signature                                       Date

Karen Reed, Deputy Director
Corporate Communications

THE CITY OF EVERETT

By___________________________________________
Signature                                       Date

Ray Stephanson, Mayor

Finance Director

APPROVED AS TO FORM

JAMES D. RIE, City Attorney

ATTEST:

City Clerk
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By ____________________________
Signature Date

Linda McCrea, Water Superintendent

Approved as to Form:

By ____________________________
Signature Date

THE CITY OF SEATTLE

By ____________________________ Date
Signature

THE CITY OF SEATTLE PUBLIC UTILITIES

Karen Reed, Deputy Director
Corporate Communications

THE CITY OF EVERETT

By ____________________________
Signature Date

Ray Stephanson, Mayor

Finance Director

SPU #15-188-A
Water Shortage Campaign

Page 5 of 5
PROJECT TITLE: Memorandum of Agreement #15-188-A between the City of Seattle, The City of Tacoma and the City of Everett for Water Shortage Campaign

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

COUNCIL BILL # Origination Department

Public Works
Marla Carter
425-257-8875
November 25, 2015

Initialed by:
Department Head
CAA
Council President

Location Preceding Action Attachments Department(s) Approval

Amount Budgeted $51,500 Legal, Public Works
Expenditure Required $42,042
Budget Remaining $9,458
Additional Required -0-

Account Number(s): 401 5 400 121 907 494

DETAILED SUMMARY STATEMENT:
The City of Everett coordinated activation of our Drought Response Plan with the cities of Seattle and Tacoma on July 7, 2015. Public education messaging is an important component of getting the plan information to our customers. Regional coordination of messaging is the most cost effective method. Seattle, Everett and Tacoma agreed to co-sponsor a water shortage campaign with public service announcements for public education to reduce water usage throughout the Puget Sound region. The City’s share of the regional campaign is $42,042.

RECOMMENDATION (Exact action requested of Council):
Authorize the Mayor to sign Memorandum of Agreement #15-188-A between the City of Seattle, The City of Tacoma and the City of Everett for a Water Shortage Campaign in the amount of $42,042.