



# EVERETT

WASHINGTON

Mayor's Veto of Ordinance No. 3912-22

December 14, 2022

Honorable Councilmembers,

I am exercising my authority under Article 4, Section 1 of the Everett Charter to veto Ordinance No. 3912.22. As required by Article 3, Section 4 of the Charter, I am returning the unsigned ordinance to Council with written objections.

I am a strong supporter of unions and believe that project labor agreements can serve a valuable purpose; however, I cannot approve the ordinance as passed for the reasons stated in the following written objections:

- a) Unlike existing Resolution 7461 and other PLA ordinances staff have reviewed, this ordinance makes PLAs mandatory with no project-by-project analysis of whether a PLA is in the public interest for a particular project. It mandates the use of a PLA even for projects where a PLA does not serve the public interest.
- b) It is irresponsible to allow this ordinance to go into effect without understanding its impact on the city budget, Everett's taxpayers, and its ratepayers.
- c) The ordinance was adopted without fully considering its impact on minority and women owned businesses and/or its effect on the city's equity work.
- d) The ordinance was adopted without full consideration of its impact on the time it will take to complete city construction projects and the cost of project delay.
- e) The ordinance was adopted without the benefit of a comprehensive review of legal risks and vulnerabilities.
- f) The ordinance does not include an index to inflation.

As Mayor, it's my job to lead the city and make decisions that improve the quality of life of our residents. It's my duty to ensure we are working in the public's best interest. Unfortunately, there are too many unknowns and unaddressed concerns with this ordinance. Because of this, I am exercising my authority under Article IV (4), Section 1 of the Everett Charter to veto

**Office of the Mayor**  
**CASSIE FRANKLIN**



2930 Wetmore Ave., Ste. 10-A  
Everett, WA 98201



425.257.7115  
425.257.8729 fax



everettwa.gov

Ordinance No. 3912.22. I do not use this authority lightly and I fully understand the gravity of this situation.

Signed,

A handwritten signature in black ink, appearing to be 'Cassie Franklin', with a long horizontal stroke extending to the right.

Mayor Cassie Franklin, Everett Washington





ORDINANCE NO. 3912-22

An ORDINANCE relating to Project Labor Agreement and Community Workforce Agreements, adding a new section to Chapter 3.80 EMC.

**WHEREAS,**

- A. The City has an interest in awarding major construction project contracts in such a manner as to yield the lowest reasonable cost and the highest standard of quality and efficiency on the job.
- B. The City is committed to fiscal responsibility and prudent budgetary practices.
- C. The City has an interest in promoting increased opportunity for trade worker apprenticeships and training opportunities.
- D. As additional tools, Project Labor Agreements and Community Workforce Agreements can be of economic benefit for publicly funded major construction projects that involve a substantial number of contractors, subcontractors, and craft workers and that have a substantial project cost to City taxpayers.
- E. Project Labor Agreements and Community Workforce Agreements may facilitate the timely and efficient completion of major construction projects by making available a ready and reliable supply of highly trained and skilled craft workers, helping the City and contractors accurately determine project labor costs, establish working conditions for the duration of the project, and assuring labor stability and avoiding project disruptions such as strikes, lockouts or slowdowns over the life of the major construction project.

**NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:**

**Section 1.** A new section (to be codified as EMC 3.80.060) is hereby added to Chapter 3.80 EMC as follows:

**EMC 3.80.060 Project Labor Agreements/Community Workforce Agreements**

A. Definitions

- 1. "Covered Project" means a City public works construction project with estimated cost of \$5 million or more for which City Council authorizes call for bids (or for public works under chapter 39.10 RCW, authorizes request for proposals or request for qualifications, as applicable) beginning January 1, 2023.
- 2. "Estimated cost" means as follows:
  - a. For a design build project under chapter 39.10 RCW, the "estimated cost" is the total amount estimated by the City to be paid by the City to the design-builder

under the design-build contract, including design and construction phases. This will be the total of the estimated Guaranteed Maximum Price plus estimates of all other amounts to be paid by the City to the design-builder under the design-build contract.

- b. For a general contractor/construction manager (GCCM) project under chapter 39.10 RCW, the “estimated cost” is the total amount estimated by the City to be paid by the City to the GCCM under the GCCM contract during all project phases. This will be the total of the estimated Maximum Allowable Construction Cost plus estimates of all other amounts to be paid by the City to the GCCM under the GCCM contract.
- c. For all other public work construction contracts, the “estimated cost” is estimated construction cost of the public work, as determined by the City, based upon the expected costs of materials, supplies, equipment, and labor.

The estimated cost will exclude taxes. The estimated cost is as estimated as of the date that City Council authorizes call for bids (or for a public work under chapter 39.10 RCW, authorizes request for proposals or request for qualifications, as applicable).

3. “Project Agreement” refers to an agreement as set forth in this section, which may be in the form of a Project Labor Agreement or Community Workforce Agreement, as appropriate. A Project Agreement will typically be an agreement executed between the City and each union that represents the workers for trades that typically perform work on City public works projects, which sets out the terms and conditions between the City, the unions, and signatory contractors on a Covered Project and that meets the requirements of this section.
  4. “Public work” is as defined by RCW 39.04.010 as may be superseded or amended.
- B. Use of Project Agreements. The City shall use Project Agreements as set forth in this Section for all Covered Projects.
- C. Contents of Project Agreements. Provisions such as the following will be considered for inclusion in each Project Agreement:
1. Provisions concerning the selection, through a competitive process, of a general contractor, project manager or similar construction firm that is experienced in the negotiation and administration of Project Agreements to manage and oversee the construction of the Covered Project, including the development and implementation of a labor relations policy for the major construction project.
  2. Provisions containing guarantees against strikes, lockouts, slowdowns or other similar action.
  3. Provisions setting forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work.

4. Provisions binding on all contractors and subcontractors on the Covered Project through the inclusion of appropriate bid specifications in all relevant bid documents.
5. Provisions requiring open competition for work to be performed by all union and nonunion contractors, subcontractors, and material suppliers willing to abide by the terms of the Project Agreement.
6. Provisions prohibiting discrimination in job referrals as required by federal, state, and local law.
7. Provisions providing for and promoting increased opportunity for trade worker apprenticeships utilization and training opportunities. Regardless of City Council Resolution 5286, a project with a Project Agreement will require that at least fifteen (15) percent of the labor hours be performed by apprentices enrolled in a State-registered apprenticeship program.
8. Provisions related to preservation and protection of trade worker health and safety on the job site.
9. Provisions stating that contractor or subcontractor non-compliance with Project Agreement apprentice requirements will cause, during the 2 years after Covered Project final acceptance by the City, any bid by such contractor or subcontractor for another City public works project to be deemed not responsible.

D. Master Project Agreement. The City will develop for City Council approval a Master Project Agreement with standardized provisions that will serve as a template for Project Agreements for Covered Projects. Specific terms of Project Agreements for specific Covered Projects may be different from Covered Project-to-Covered Project. In recommending a draft Project Agreement for City Council consideration for a specific Covered Project, City staff will consider Project Agreements used in similar projects in Washington state, and City staff will describe to City Council any deviations in the proposed Project Agreement from the approved Master Project Agreement.

**Section 2.** No more than 24 months after implementation of this Ordinance a written report showing the number of women, minority, and veteran worker participation on Covered Projects shall be reported to the City Council by City staff. The intent is to establish baseline numbers of participation of underrepresented workers to potentially inform future policy decisions and goals regarding underrepresented worker participation.

**Section 3.** This Ordinance does not authorize or promote the selection of any particular contractor, subcontractor, union, trade council, or labor organization.

**Section 4.** This Ordinance supersedes Resolution 7461.

**Section 5.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

**Section 6.** The City Council hereby declares that should any section, paragraph, sentence, clause or

phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**Section 7.** The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

**Section 8.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

**Section 9.** The following projects shall not be subject to this Ordinance: Edgewater Bridge Replacement Project, Sewer Replacement "O" Project, PGSF Demolition Project, and Water Pollution Control Facility Combined Sewer Conveyance Project.

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

ATTEST:

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Marista Jorve, City Clerk

PASSED: 12/07/2022

VALID: \_\_\_\_\_

PUBLISHED: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_\_