

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 02/26/18

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|--------------------------------------------------------------------------------------------|---------------------------|
| AGENDA ITEM: | |
| Professional Services Agreement between City of Marysville and Gardner Bay Consulting, LLC | |
| PREPARED BY: | DIRECTOR APPROVAL: |
| Gloria Hirashima, Chief Administrative Officer | |
| DEPARTMENT: | |
| Executive | |
| ATTACHMENTS: | |
| Professional Services Agreement | |
| BUDGET CODE: | AMOUNT: |
| 00100110 541000 | \$50,370.00 |
| SUMMARY: | |

The proposed agreement establishes a professional services agreement for Gardner Bay Consulting, LLC to provide consulting services for the sale and lease of city-owned properties along the Ebey Slough waterfront, east and west of State Avenue. The scope of services is attached as Exhibit A.

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| RECOMMENDED ACTION: Approve proposed professional services agreement. |
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**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF MARYSVILLE
AND GARDNER BAY CONSULTING, LLC**

THIS AGREEMENT (“Agreement”) is made and entered into this _____ day of February, 2018, by and between the City of Marysville, a Washington State municipal corporation (“City”), and Gardner Bay Consulting, LLC, a corporation, limited liability Washington corporation, organized under the laws of the state of Washington, located and doing business at 1228 Grand Avenue, Everett, WA 98201 (“Consultant”).

In consideration of the terms, conditions, covenants, and performances contained herein, the parties hereto agree as follows:

- 1. SCOPE OF SERVICES.** The Consultant shall provide the work and services described in the attached Exhibit A, incorporated herein by this reference (the “Services”). All services and materials necessary to accomplish the tasks outlined in the Scope of Services shall be provided by the Consultant unless noted otherwise in the Scope of Services or this Agreement. All such services shall be provided in accordance with the standards of the Consultant’s profession.
- 2. TERM.** The term of this Agreement shall commence on February, 2018 and shall terminate at midnight on April 30, 2019. The parties may extend the term of this Agreement by executing a written supplemental amendment.
- 3. COMPENSATION.** The Consultant shall be paid by the City for Services rendered under this Agreement as described in Exhibit A and as provided in this section. In no event shall the compensation paid to Consultant under this Agreement exceed Fifty thousand three hundred seventy dollars (\$ **50,370.00**) within the term of the Agreement, including extensions, without the written agreement of the Consultant and the City. Such payment shall be full compensation for the Services and for all labor, materials, supplies, equipment, incidentals, and any other expenses necessary for completion.

The Consultant shall submit a monthly invoice to the City for Services performed in the previous calendar month in a format acceptable to the City. The Consultant shall maintain time and expense records and provide them to the City upon request.

The City will pay timely submitted and approved invoices received before the 20th of each month within thirty (30) days of receipt.

4. CONSULTANT’S OBLIGATIONS.

4.1 MINOR CHANGES IN SCOPE. The Consultant agrees to accept minor changes, amendments, or revisions to the scope of the Services, as may be required by the City, when such

changes, amendments, or revisions will not have any impact on the cost of the Services or the proposed delivery schedule.

4.2 ADDITIONAL WORK. The City may desire to have the Consultant perform additional work or services which are not identified in the scope of the Services. If the parties agree to the performance of additional work or services, the parties will execute a written supplemental amendment detailing the additional work or services and compensation therefore. In no event will the Consultant be compensated for preparing proposals for additional work or services. In no event shall the Consultant begin work contemplated under a supplemental amendment until the supplemental amendment is fully executed by the parties.

4.3 WORK PRODUCT AND DOCUMENTS. The work product and all documents produced under this Agreement shall be furnished by the Consultant to the City, and upon completion of the Services shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the Services, the work product, and all documents produced under this Agreement, even though the Services have been accepted by the City.

In the event that the Consultant defaults on this Agreement or in the event that this Agreement is terminated prior to the completion of the Services or the time for completion, all work product and all documents and other materials produced under this Agreement, along with a summary of work as of the date of default or termination, shall become the property of the City. The summary of Services provided shall be prepared at no additional cost to the City. Upon request, the Consultant shall tender the work product, all documents, and the summary to the City within five (5) business days. Tender of said work product shall be a prerequisite to final payment under this Agreement.

The Consultant will not be held liable for reuse of work product or documents produced under this Agreement or modification of the work product or documents for any purpose other than those identified in this Agreement without the written authorization of the Consultant.

4.4 PUBLIC RECORDS ACT. Consultant acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "PRA"). All records owned, used, or retained by the City are public records subject to disclosure unless exempt under the PRA, whether or not the records are in the possession or control of the City or Consultant. All exemptions to the PRA are narrowly construed.

a. **Confidential Information.** Any records provided to the City by the Consultant which contain information that the Consultant in good faith believes is not subject to disclosure under the PRA shall be marked "Confidential" and shall identify the specific information that the Consultant in good faith believes is not subject to disclosure under the PRA and a citation to the statutory basis for non-disclosure.

b. **Responding to Public Records Requests.** The City shall exercise its sole legal judgment in responding to public records requests.

- (1) The City may rely upon the lack of notification from the Consultant in releasing any records that are not marked “Confidential.”
- (2) If records identified as “Confidential” by the Consultant are responsive to a PRA request, the City will seek to provide notice to Consultant at least ten (10) business days before the date on which the City anticipates releasing records. The City is under no obligation to assert any applicable exemption on behalf of the Consultant. The Consultant may seek, at its sole cost, an injunction preventing the release of information which it believes is protected. In no event will the City have any liability to Consultant for any failure of the City to provide notice prior to release.
- (3) If the City, in its sole legal judgment, believes that the Consultant possesses records that (1) are responsive to a PRA request and (2) were used by the City, the City will request the records from the Consultant. The Consultant will, within ten (10) business days:
 - i. Provide the records to the City in the manner requested by the City;
 - ii. Obtain a court injunction, in a lawsuit involving the requester, covering all, or any confidential portion of, the records and provide any records not subject to the court injunction; or
 - iii. Provide an affidavit, in a form acceptable to the City Attorney, specifying that the Consultant has made a diligent search and did not locate any requested documents.

c. **Indemnification.** In addition to its other indemnification and defense obligations under this Agreement, the Consultant shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorneys fees and litigation expenses), suits, judgments, or damages (collectively “Damages”) arising from or relating to any request for records related to this Agreement, to the extent such Damages are caused by action or inaction of the Consultant. This indemnification and defense obligation shall survive the expiration or termination of this Agreement.

4.5 MAINTENANCE/INSPECTION OF RECORDS. The Consultant shall maintain all books, records, documents, and other evidence pertaining to the costs and expenses allowable under this Agreement in accordance with generally accepted accounting practices. All such books and records required to be maintained by this Agreement shall be subject to inspection and audit by representatives of the City and/or the Washington State Auditor at all reasonable times, and the Consultant shall afford the proper facilities for such inspection and audit.

Representatives of the City and/or the Washington State Auditor may copy such books, accounts, and records where necessary to conduct or document an audit. The Consultant shall preserve and make available all such books of account and records for a period of three (3) years after final payment under this Agreement. In the event that any audit or inspection identifies any discrepancy in such financial records, the Consultant shall provide the City with appropriate clarification and/or financial adjustments within thirty (30) calendar days of notification of the discrepancy.

4.6 INDEMNITY.

a. **Indemnification and Hold Harmless.** The Consultant shall defend, indemnify, and hold the City, 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 City.

b. 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 City, 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.

c. The provisions of this Section 4.6 shall survive the expiration or termination of this Agreement.

d. The Consultant hereby knowingly, intentionally, and voluntarily waives the immunity of the Industrial Insurance Act, Title 51 RCW, solely for the purposes of the indemnity contained in subpart "a" of this Section 4.6. This waiver has been mutually negotiated by the parties.

PB (initials) PB (initials)

4.7 INSURANCE.

a. **Insurance Term.** 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 Services hereunder by the Consultant, its agents, representatives, or employees.

b. **No Limitation.** 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.

c. **Minimum Scope of Insurance.** Consultant shall obtain insurance of the types and coverage described below:

- (1) Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
- (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 Services performed for the City using an additional insured endorsement at least as broad as ISO 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.

d. **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.

e. **Other Insurance Provision.** 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 as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

f. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

g. **Verification of Coverage.** The 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 Services.

h. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation within two business days of the Consultant's receipt of such notice.

i. **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 (5) 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.

j. **Insurance to be Occurrence Basis.** Unless approved by the City all insurance policies shall be written on an "Occurrence" policy as opposed to a "Claims-made" policy. The City may require an extended reporting endorsement on any approved "Claims-made" policy.

k. **City Full Availability of Consultant Limits.** If the Consultant maintains higher insurance limits than the minimums shown above, the City 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.

4.8 LEGAL RELATIONS. The Consultant shall comply with all federal, state, and local laws, regulations, and ordinances applicable to the Services to be performed under this Agreement. The Consultant represents that it and all employees assigned to perform any of the Services under this Agreement are in full compliance with the statutes of the State of Washington governing the Services and that all personnel to be assigned to the Services are fully qualified and properly licensed to perform the work to which they will be assigned.

4.9 INDEPENDENT CONTRACTOR.

a. The Consultant and the City understand and expressly agree that the Consultant is an independent contractor in the performance of each and every part of this Agreement. The Consultant expressly represents, warrants, and agrees that the Consultant's status as an independent contractor in the performance of the Services required under this Agreement is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195 or as hereafter amended. The Consultant, as an independent contractor, assumes the entire responsibility for carrying out and accomplishing the Services required under this Agreement. The Consultant shall not make

a claim of City employment and shall not claim any related employment benefits, social security, and/or retirement benefits.

b. The Consultant shall be solely responsible for paying all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, the Consultant shall pay the same before it becomes due.

c. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work to the Services that the Consultant performs under this Agreement.

d. Prior to commencement of Services, the Consultant shall obtain a business license from the City.

4.10 EMPLOYMENT.

a. The term “employee” or “employees” as used herein shall mean any officers, agents, or employee of the Consultant.

b. Any and all employees of the Consultant, while performing any Services under this Agreement, shall be considered employees of the Consultant only and not of the City. The Consultant shall be solely liable for: (1) and any and all claims that may or might arise under the Workman’s Compensation Act, Title 51 RCW, on behalf of any said employees while performing any Services under this Agreement, and (2) any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while performing any Services under this Agreement.

c. The Consultant represents, unless otherwise indicated below, that all employees of the Consultant that will perform any Services under this Agreement have never been retired from a Washington State retirement system, including but not limited to Teacher (TRS), School District (SERS), Public Employee (PERS), Public Safety (PSERS), law enforcement and fire fighters (LEOFF), Washington State Patrol (WSPRS), Judicial Retirement System (JRS), or otherwise. *(Please use initials to indicate No or Yes below.)*

 PB No, employees performing the Services have never been retired from a Washington state retirement system.

_____ Yes, employees performing the Services have been retired from a Washington state retirement system.

In the event the Consultant checks “no”, but an employee in fact was a retiree of a Washington State retirement system, and because of the misrepresentation the City is required to defend a claim by the Washington State retirement system, or to make contributions for or on account of the employee, or reimbursement to the Washington State retirement system for benefits paid, the Consultant hereby agrees to save, indemnify, defend and hold the City harmless from and against all expenses and costs, including reasonable attorney fees incurred in defending the claim of the Washington State retirement system and from all contributions paid or required to be paid, and for all reimbursement required to the Washington State retirement system. In the event the Consultant checks “yes” and affirms that an employee providing work has ever retired from a Washington State retirement system, every said employee shall be identified by the Consultant and such retirees shall provide the City with all information required by the City to report the employment with Consultant to the Department of Retirement Services of the State of Washington.

4.11 NONASSIGNABLE. Except as provided in Exhibit B, the Services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

4.12 SUBCONTRACTORS AND SUBCONSULTANTS.

a. The Consultant is responsible for all work or services performed by subcontractors or subconsultants pursuant to the terms of this Agreement.

b. The Consultant must verify that any subcontractors or subconsultants the Consultant directly hires meet the responsibility criteria for the Services. Verification that a subcontractor or subconsultant has proper license and bonding, if required by statute, must be included in the verification process. If the parties anticipate the use of subcontractors or subconsultants, the subcontractors or subconsultants are set forth in Exhibit B.

c. The Consultant may not substitute or add subcontractors or subconsultants without the written approval of the City.

d. All subcontractors or subconsultants shall have the same insurance coverage and limits as set forth in this Agreement and the Consultant shall provide verification of said insurance coverage.

4.13 CONFLICTS OF INTEREST. The Consultant agrees to and shall notify the City of any potential conflicts of interest in Consultant’s client base and shall obtain written permission from the City prior to providing services to third parties when a conflict or potential conflict of interest exists. If the City determines in its sole discretion that a conflict is irreconcilable, the City reserves the right to terminate this Agreement.

4.14 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate, or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or the Services provided to the City.

4.15 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against any client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, sexual orientation, age, or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training; or rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth its nondiscrimination obligations. The Consultant understands and agrees that if it violates this nondiscrimination provision, this Agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

4.16 UNFAIR EMPLOYMENT PRACTICES. During the performance of this Agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

5. CITY APPROVAL REQUIRED. Notwithstanding the Consultant's status as an independent contractor, the Services performed pursuant to this Agreement must meet the approval of the City, which shall not be unreasonably withheld if the Services have been completed in compliance with the Scope of Services and City requirements.

6. GENERAL TERMS.

6.1 NOTICES. Receipt of any notice shall be deemed effective three (3) calendar days after deposit of written notice in the U.S. mail with proper postage and address.

Notices to the City shall be sent to the following address:

CITY OF MARYSVILLE
Gloria Hirashima, Chief Administrative Officer
1049 State Avenue
Marysville, WA 98270

Notices to the Consultant shall be sent to the following address:

GARDNER BAY CONSULTING, LLC

1228 Grand Avenue

Everett, WA 98201

6.2 TERMINATION. The City may terminate this Agreement in whole or in part at any time by sending written notice to the Consultant. As per Section 6.1, the Consultant is deemed to have received the termination notice three (3) calendar days after deposit of the termination notice in the U.S. mail with proper postage and address. The termination notice is deemed effective seven (7) calendar days after it is deemed received by the Consultant.

If this Agreement is terminated by the City for its convenience, the City shall pay the Consultant for satisfactory Services performed through the date on which the termination is deemed effective in accordance with payment provisions of Section 3, unless otherwise specified in the termination notice. If the termination notice provides that the Consultant will not be compensated for Services performed after the termination notice is received, the City will have the discretion to reject payment for any Services performed after the date the termination notice is deemed received.

6.3 DISPUTES. The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this Agreement may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

6.4 EXTENT OF AGREEMENT/MODIFICATION. This Agreement, together with exhibits, attachments, and addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by a written supplemental amendment properly signed by both parties.

6.5 SEVERABILITY.

a. If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining parts, terms, or provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

b. If any part, term, or provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that part, term, or provision shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

6.6 NONWAIVER. A waiver by either party of a breach by the other party of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

6.7 FAIR MEANING. The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

6.8 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

6.9 VENUE. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Snohomish County, Washington.

6.10 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

6.11 AUTHORITY TO BIND PARTIES AND ENTER INTO AGREEMENT. The undersigned represent that they have full authority to enter into this Agreement and to bind the parties for and on behalf of the legal entities set forth herein.

DATED this _____ day of _____, 20_____.

CITY OF MARYSVILLE

GARDNER BAY CONSULTING, LLC

By: _____

By:  _____

Jon Nehring, Mayor

Its: Managing Principal

Attested/Authenticated:

April O'Brien, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

EXHIBIT A

SCOPE OF WORK

Gardner Bay Consulting, LLC proposes the following scope of work for this project.

PHASE I

Task 1 - Prepare and Facilitate the Request for Qualifications Process

There are three objectives for the Request for Qualifications Process:

- 1) Ensure the Request for Qualifications is consistent with the City's policies and objectives and considers the long view of current and future development in the Marysville downtown.
- 2) Prepare a draft Request for Qualifications and circulate it to key city staff for review and input. The draft Request for Qualifications builds upon the City's vision and master plan for downtown and will present goals, timelines, and decision criteria for selecting a short list of development firms.
- 3) Prepare outreach materials that promote the pending Request for Qualifications. These materials would be used during outreach to developers to present the opportunity and solicit industry feedback on the project.

Specific task activities would include:

- Review the City's policies and expected practices for selling/developing surplus land.
- Review plans and materials made available by the City that relate to the current development of the Ebey Slough and waterfront area. These may include design drawings, environmental studies, permit documents, and land use agreements.
- Evaluate the plans of other agencies with planned investments in the area to incorporate this as part of the marketing. This may include WSDOT planned projects, Snohomish County, or Tulalip Tribe planned improvements that would benefit development on the Marysville waterfront.
- Identify and review encumbrances or other regulatory constraints that are tied to the property and develop recommendation for regulatory strategy for the City. This would include looking at brownfields cleanup requirements, regulatory obligations and other agency requirements that could add cost to the development.
- Develop site information including a land yield analysis conducted by an architect to determine if the site size and shape will produce the required parking yield, sufficient retail space and a desired number of multi-family units.
- Appraise the project consistent with the anticipated future land yield and prepare an opinion of future value. This information will be used for the city's proprietary assessment of proposals.
- Identify current and future planned capital improvements for the area and utility availability for the area.
- Coordinate, as directed by the City, with city advisory committees, boards, and commissions.
- Prepare exhibits and a narrative showing and describing the subject property and the parcels surrounding the subject site. The exhibits and narrative will also identify the current use, value of

improvements, tenants, size and assessed value of neighboring properties. This work will also, identify retail services within ¼-mile and transportation options to and from the site.

- Prepare a preliminary estimate of permit fees and required developer-provided civic infrastructure dedications.
- Summarize livability aspects of the area including crime data, access to schools, access to culture and recreation, jobs and surrounding population for use in the solicitation.
- Meet with the City to discuss the information and collect their input.
- Prepare a draft and final Request for Qualifications.

Gardner Bay Consulting will prepare the following deliverables under Task 1:

- A summary of the findings of this task and an opinion on the sale of the land, the optimal timing of the sale, and the anticipated benefit to the City's district and area plans. This deliverable will include the exhibits and narrative of the site and neighboring properties and be in the form of a preliminary prospectus for the project.
- Draft and final versions of the Request for Qualifications. The Request for Qualifications will include a preliminary prospectus and identify project requirements, submittal and evaluation criteria, and a timeline for the review and subsequent proposal process.

The Task 1 work is based on the following assumptions. Changes to these assumptions may require corresponding adjustment to the schedule or fee estimate.

- The City can provide copies (either electronic or paper) of existing documentation and agreements related to the Marysville waterfront development, particularly as those documents relate to properties south of
- The architectural effort for lot analysis will simple and based on 40 hours of architect time.
- City will provide for any appraisal required to determine land value or future use value.
- One meeting with the City to clarify the information provided.
- One meeting with the City to discuss the deliverable.

Task 2 - Facilitate the Qualifications Process

There are two objectives in selecting a short list of developers and soliciting formal proposals.

- 1) Develop industry awareness of the up-coming Request for Qualifications/Proposal process. This effort is needed to ensure the development interests that are right for this project are aware of the opportunity and prepared to receive the solicitation.
- 2) Facilitate the issue and review of Statements of Qualifications and the selection of a short list of developers to receive proposals.

Specific task activities would include:

- Engage with developers and development organizations (e.g., NAIOP, ICSC, ULI) to discuss the project and develop interest in the project. We anticipate up to six individual developer meetings and several

ad hoc discussions with economic development agents to 'get the word out' about the Ebey waterfront opportunity.

- Once the Request for Qualifications is released, manage the day to day requirements of the process, including fielding questions, responding to requests for information, facilitating pre-submittal conferences, distributing information, and maintaining a project record.
- Meet regularly with the City's project manager and procurement official to update them on the procurement process.
- Review Statements of Qualifications received from developers and prepare summaries of how they address key selection criteria. These summaries will be the basis for a review session with the City's selection committee to develop a shortlist of developers that will be asked to submit formal proposals for the property.

Gardner Bay Consulting will prepare the following deliverables under Task 2:

- Single page summaries of the Statements of Qualifications submitted.
- Single page updates in advance of regular meetings with the City's project manager and procurement official.
- All other task documentation will be maintained in a project file and submitted to the City on request or at the completion of the project.
- A summary of the reviewers' final scoring and decision; justification notes.

The Task 2 work is based on the following assumptions. Changes to these assumptions may require corresponding adjustment to the schedule or fee estimate.

- The City Procurement office will issue the Request for Qualifications.
- Day-to-day management will require 3 hours per week for 8 weeks.
- Regular meetings will be at the City offices or by phone, depending on client preference.
- Developer meetings and outreach will require local travel within the Puget Sound. We assume 3 trips to the Seattle metro area and 3 meetings in Everett.
- Final developer selection will be made by the City.

PHASE 2

Phase 2 will be awarded at the City's option.

Task 3 – The Request for Proposal Process

The objective of this task is to manage a competitive proposal process with the short list of developers that were selected based on their qualifications. The City will have the option to perform this task themselves or request that the Gardner Bay Consulting complete the work

Specific task activities would include:

- Prepare the Request for Proposal. This will generally follow the form of the City's current Request for Proposal and be issued to each short-listed firm
- Compile and disseminate additional information about the project, the City commitments, utility information, permitting requirements, cleanup, and stakeholder inputs.
- Facilitate any required pre-proposal meetings.
- Evaluate proposals and prepare a written summary of how they compare and meet the City's selection Criteria the project.
- Facilitate interviews and provide input to the interview and selection process.

Deliverables to be prepared under Task 3 should include:

- The Request for Proposal
- Proposal Evaluation Summaries
- Interview guide sheets and scoring tables.

Should the City request Gardner Bay Consulting perform the Task 3 work, we assume a revision to the contract agreement will define the assumptions for this task.

Task 4 - On-going Technical Assistance

The objective for on-going technical assistance is to assist the City through the purchase and sale process with the developer. This task will begin following the selection of a preferred developer and the specific task activities will be defined in a revision to this scope work. This will allow the City to understand the context of their deal and their developer and selectively request support from Gardner Bay Consulting for on-going assistance.

Task activities that Gardner Bay could provide under Task 4 could include the following:

- Notify the proposers of the "preferred developer" decision.
- Support the negotiation of the general terms of the sale.
- Work with the City's legal team and an outside commercial real estate attorney to negotiate a Purchase and Sale Agreement and supporting agreements.
- Present information in meetings before the appropriate city bodies.
- Public affairs assistance for outreach and public announcements.
- Facilitate the developer's due diligence process by coordinating with City staff and departments.
- Prepare "seller commitments."
- Coordinate with WSDOT, the Tulalip Tribes, Corps of Engineers, Department of Ecology, or others that would have a stake in the transfer of the property for redevelopment.
- Help close the deal.

Gardner Bay Consulting will prepare deliverables under Task 4 as requested by the City.

Gardner Bay Consulting assumes that Task 4 work will be defined in a revision to this scope of work that will present assumptions for specific work requested by the City.

CONTRACT ADMINISTRATION

Task 5 - Professional Services Administration (Part of Phase I)

The objective of this task is to provide the City with regular budget updates, progress reports, and general project administration (including billing and contract management).

Specific task activities will include:

- Monthly progress reports and invoices
- Routine client communication

Gardner Bay Consulting assumes that there will be 4 monthly reports. Adjustments may be made based on the City's requests for additional support for Tasks 3 and 4.

SCHEDULE

| | |
|---------------------|-----------------------------|
| Notice to proceed - | February 27, 2018 |
| Pre- RFQ Efforts - | February 27- March 23, 2018 |
| Issue RFQ - | March 23, 2018 |
| RFQs due | April 23, 2018 |
| Select Short List | April 30, 2018 |
| Prepare RFP | April 15 – May 11, 2018 |
| Issue RFP | May 11, 2018 |
| RFPs Due | June 10, 2018 |
| Interviews | June 17, 2018 |
| Selection | June 30, 2018 |

Marysville Waterfront RFQ/RFP - Estimate of Probable Fees

City of Marysville

| Gardner Bay Consulting, LLC | | | | Principal | Project Manager | Project Professional | Clerical/ Administration | Graphics | | TOTAL COST | |
|-------------------------------------------------------|------|----------------------------------------|------------|------------------------------------|-----------------|----------------------|--------------------------|-----------|----------------------|------------------|--|
| PHASE | TASK | NAME | BILL RATES | \$150.00 | \$145.00 | \$125.00 | \$65.00 | \$110.00 | | | |
| I | 1 | Prepare the Request for Qualifications | | 8 | 30 | 16 | 10 | 12 | | \$9,520 | |
| | 2 | Facilitate the Qualifications Process | | 12 | 24 | 32 | 16 | 2 | | \$10,540 | |
| II | 3 | The Request for Proposal Process | | 16 | 24 | 24 | 12 | 8 | | \$10,540 | |
| III | 4 | On-going Technical Services | | To Be Developed as Part of Phase 2 | | | | | | | |
| I | 5 | Professional Services Administration | | | 12 | | 4 | | | \$2,000 | |
| These hours are for PHASE I and PHASE II, only | | | | 36 | 90 | 72 | 38 | 22 | | \$ 32,600 | |
| Item | | | | Quantity | Unit Cost | Unit | Direct Cost | Markup % | | | |
| Mileage | | | | 200 | \$0.545 | mile | \$109 | 0% | | \$109 | |
| Photocopies | | | | 500 | \$0.17 | sheet | \$85 | 10% | | \$94 | |
| Check prints | | | | 20 | \$1.00 | sheet | \$20 | 10% | | \$22 | |
| Production Supplies | | | | 2 | \$50.00 | sheet | \$100 | 10% | | \$110 | |
| Misc. | | | | 2 | \$50.00 | each | \$100 | 10% | | \$110 | |
| | | | | | | | | | Subtotal | \$445 | |
| Description | | | | | | | Direct Cost | Markup % | | | |
| Appraiser | | | | Property Valuation | | | \$10,500 | 10% | | \$11,550 | |
| Architect | | | | Land Bearing Capacity | | | \$5,250 | 10% | | \$5,775 | |
| | | | | | | | | | Subtotal | \$17,325 | |
| | | | | | | | | | PROJECT TOTAL | \$50,370 | |