

**SERVICES AGREEMENT**  
**CITY OF SUMAS**

The **CITY OF SUMAS**, a municipal corporation of the State of Washington (hereinafter the "City"), with offices located at City Hall, 433 Cherry Street, Sumas, Washington 98295, and **Evergreen Consulting Group I, LLC** (hereinafter the "Contractor"), with offices located at 14845 SW Murray Scholls Dr. Suite 110, PMB #513, Beaverton, OR 97007-9237, in consideration of the mutual covenants herein, do hereby agree as follows:

**I. PURPOSE:** The purpose of this Agreement is for the provision professional consulting, support and related services for City's energy efficiency program, including the provision of program management and operational support.

**II. TERM OF AGREEMENT/TIME OF PERFORMANCE:** Notwithstanding the date of execution hereof, this Agreement shall be in effect from October 1, 2024, through September 30, 2025, unless terminated earlier as set forth herein. Performance of work by Contractor shall be completed by Contractor in a timely manner, and also consistent with the scope of work, industry standard and within all applicable time requirements and deadlines. If the work is not completed by Contractor within the time set forth above, Contractor shall be deemed to have failed to substantially perform a material part of its obligations under this Agreement and the City shall have the rights set forth under sub-section **IX. A.** below related to default.

**III. LIAISON:** The City's officer responsible for this Agreement is Sunny Aulakh, its Public Works Director. The Contractor's responsible person is Mike Porter.

**SCOPE OF WORK:** The Contractor shall provide professional consulting and related services to the City for the implementation, support, and performance of the City's energy efficiency program, including the provision of program management and operation support for commercial and industrial lighting, HVAC, and residential programs, as well as performance, requirement compliance, assessment, planning, reporting and related services, as set forth in herein and in the "City of Sumas (CoS) Industrial Lighting, HVAC & Residential Programs Program Management proposal from Evergreen Consulting Group I, LLC, for October 1, 2024 through September 30, 2025" attached hereto and marked as **Exhibit "A"**.

**IV. PAYMENT:**

A. Contractor shall be compensated for services performed consistent with the pricing and rates set forth in **Exhibit "A"**, but only to the extent that compensation does not exceed the amount set forth in sub-section B.

B. The total compensation paid to Contractor for performance of the services called for in this Agreement, and set forth above, shall not exceed: \$27,000.00.

C. The City agrees to pay the Contractor monthly based on invoices submitted periodically.

D. Contractor will be paid on the basis of invoices for work satisfactorily completed. Invoices shall be submitted to the Project Manager for approval prior to payment. No final payment shall be made until approved by the Project Manager.

**V. EXTRA WORK AND CHANGE ORDERS:** Work in addition to, or different from, that provided for in the Scope of Work section, shall only be allowed by prior authorization in writing, as a modification to this Agreement. Such modifications shall be attached hereto and made a part hereof, and shall be approved in the same manner as this Agreement.

**VI. LIABILITY AND INSURANCE:** The Contractor shall defend, indemnify and hold harmless the City, its officers, employees, principals and agents from any and all injury or damage to the City or its property, and also from all claims, demands, causes of action, or suits of any kind that arise directly or indirectly out of, incident to, or due to any actual or alleged negligence, intentional tort, or breach of duty by the Contractor, its agents, employees, representatives or subcontractors in performing work and services under this Agreement, except for injuries and damages caused by the sole negligence of the City.

In the event any claim, suits, or actions result from the concurrent negligence of (a) the City or the City's agents or employees and (b) the Contractor or the Contractor's agents or employees, the defense and indemnity provisions in the preceding paragraph of this section shall be valid and enforceable only to the extent of the Contractor's negligence or the negligence of its agents and employees.

The Contractor specifically agrees to defend and indemnify the City from claims or suits brought by Contractor's own employees against the City. For this purpose, Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this Agreement shall

not be limited in any way by any limitation on benefits payable to or for any third party under the workers' compensation acts. This waiver has been mutually negotiated by the parties.

The City's rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.

Contractor will obtain and maintain in force at least the following minimum insurance coverages covering all activity under this Agreement, and as to which the City shall be named as additional insured:

A.	Workers Compensation	Statutory Amount
B.	Broad Form Comprehensive General Liability	\$1,000,000
C.	Automobile Liability	\$ 500,000

An insurance certificate showing the coverage required under this paragraph will be submitted to the City for approval at least annually.

**VII. COMPLIANCE WITH LOCAL LAWS:** The Contractor shall be duly licensed and shall comply with all applicable laws, ordinances, and codes of the State and local governments.

**VIII. TERMINATION:**

A. Should either party hereto believe that the other has failed to substantially perform all or a material part of its obligations under the Agreement, it shall deliver written notice to that effect to the other, specifying the alleged default and giving the other party seven (7) days to cure such default. Thereafter, should the default not be remedied to the satisfaction of the non defaulting party, this Agreement may be terminated upon written notice (delivered by certified mail). In the event of termination under this subparagraph, the Contractor shall be paid an amount, in the discretion of the Project Manager, which takes into account actual costs incurred by the Contractor in performing the project work to the date of termination, the amount of work originally required which was satisfactorily completed to the date of termination, the cost to the City of completing the work itself or of employing another firm to complete it and the inconvenience and time which may be required to do so, along with any other factors which affect the value to the City of the project work which has been performed to the date of termination. In no event shall the Contractor receive an amount based on anticipated profit on unperformed services or other work.

B. The City shall have the right to terminate this Agreement at any time upon ten (10) days written notice to the Contractor.

C. On the giving of notice of termination, Contractor shall immediately begin winding down its services in anticipation of the termination, and shall be prepared to deliver to the City all documents and other uncompleted work on the date of termination.

D. In the event that funding is withdrawn, reduced or limited in any way after the effective date of this Agreement due to City budgetary constraints, and prior to its normal completion, the City may summarily terminate the Agreement as to the funds withdrawn, reduced or limited notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the City deems that the continuation of the services covered by this Agreement is no longer in the best interest of the City, the City may summarily terminate this Agreement in whole notwithstanding any other termination provision of this Agreement. Termination under this Section shall be effective upon receipt of written notice thereof.

E. Termination of this Agreement shall not prevent the City from invoking those provisions herein necessary to protect or enforce its rights hereunder, which provisions shall survive termination.

**IX. ASSIGNMENT:** Neither party shall assign or delegate any or all interests in this Agreement without first obtaining the written consent of the other party.

**X. VENUE STIPULATION:** This Agreement has been and shall be considered as having been made and delivered within the State of Washington, and shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action in law or equity, or judicial proceeding for the enforcement of this Agreement or any of the provisions contained therein, shall be instituted and maintained only in Whatcom County Superior Court, Bellingham, Washington.

**XI. STATUS OF CONTRACTOR:** Neither Contractor nor personnel employed by the Contractor shall acquire any rights or status in the City's employment, nor shall they be deemed employees or agents of the City for any purpose other than as specified herein. Contractor shall be deemed an independent contractor and shall be responsible in full for payment of its employees, including worker's compensation, insurance, payroll deductions, and all related costs. Further, Contractor represents that it is customarily in the business of providing the services described in this Agreement, has its own place of business, is eligible for and does file Sumas – Consulting Services Agreement with Evergreen (Term: Oct. '24 to Sept. '25)

with the Internal Revenue Service a schedule of business expenses, has established or will timely establish an account with the State Department of Revenue and has received a unified business identifier number, and maintains a separate set of books and records for such business.

**XII. CONTRACTOR'S STUDIES, REPORTS AND WORK PRODUCT:** All documents, maps and other materials of whatever kind prepared by the Contractor pursuant to this Agreement shall be deemed property of the City upon completion or termination of the Agreement. The Contractor may keep file copies of its work product but shall retain no other rights of ownership therein.

**XIV. MISCELLANEOUS PROVISIONS:**

A. Each party acknowledges that such party has read this Agreement and understands its contents, that such party has had the opportunity to have this Agreement reviewed by an attorney of such party's choice, and that such party either has consulted with an attorney or voluntarily has chosen not to consult with an attorney before signing this Agreement.

B. No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

C. No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy for a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

D. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

E. The entire agreement between the parties hereto is contained in this Agreement and the exhibits hereto; and this Agreement supersedes all of their previous

understandings and agreements, written and oral, with respect to this transaction. To the extent any of the terms or conditions set forth in any exhibit hereto, including attached Exhibit "A", are inconsistent with any provision of this Agreement, the provisions of this Agreement will control.

**EXECUTED**, this the \_\_\_\_\_ day of \_\_\_\_\_, 2024, for the Contractor:

\_\_\_\_\_  
*Name:* \_\_\_\_\_  
*Title:* \_\_\_\_\_

**EXECUTED**, this the \_\_\_\_\_ day of \_\_\_\_\_, 2024, for the **CITY OF SUMAS**:

\_\_\_\_\_  
*Mayor*

**Attest:**

**Approved as to Form:**

\_\_\_\_\_  
*City Clerk*

\_\_\_\_\_  
*City Attorney*

**Exhibit “A”**

**Statement of Work**

**City of Sumas (CoS)**

**Industrial Lighting, HVAC & Residential Programs Program  
Management proposal from Evergreen Consulting Group I, LLC**

For October 1, 2024 through September 30, 2025

Provide program management and operation support for CoS’s Commercial/Industrial Lighting, HVAC & Residential Programs. See the attached estimated budget based on time and materials provided.

Included in the management and operations of the program are the following elements:

- Providing technical energy efficiency program assistance to CoS’s customers (at the direction of Sunny Aulakh at customer sites in the CoS service area for up to one day a month. The technical assistance may consist of pre and postverifications of Commercial/Industrial lighting and Commercial HVAC projects.
- It may also include preparing proposals for CoS customers, ensuring they are signed and customers are instructed as to the necessary documentation for incentives from CoS once the lighting or HVAC project is completed.
- Ensure the Commercial/Industrial Lighting, Commercial HVAC and Residential program requirements are met and assemble the completed packages of paperwork including but not limited to the customer agreement, pre and postverifications, customer invoices and incentive request forms. These completed packages will be provided to CoS.
- There will be a monthly tracking report presented to CoS management.
- CoS will be responsible to issue the incentive checks to the customer.
- Evergreen will submit the completed Lighting Calculators, HVAC and Residential projects to the BPA portal.
- Evergreen will submit monthly invoices to CoS for Evergreen’s Labor and other expenses.

**Pricing**

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Fiscal year 2025 administration budget is **\$27,000** Time and Material Not-to-Exceed (T&M NTE).

Direct costs will be billed Time and Material (not to exceed total above) with no mark-up. Rates are valid for initial period of contract. Amendments may adjust future rates.

<b>Evergreen Consulting Group Hourly Rates</b>	
<b>Position</b>	<b>Billing Rate</b>
Sr. Program Manager	\$ 152.00
Program Manager	\$ 142.00
Project Manager	\$ 135.00
Sr. Energy Specialist	\$ 135.00
Energy Specialist	\$ 124.00
Program Coordinator	\$ 114.00

Project Coordinator	\$ 105.00
Administrative Coordinator	\$ 94.00
Payments Specialist	\$ 98.00
Director	\$ 179.00

## Invoicing

Evergreen will submit monthly invoices for Time and Material to the following contact information:

Attention: Finance Director  
 City of Sumas  
 433 Cherry Street  
 P.O. Box 9  
 Sumas, WA 98295

Terms of payment are net 30 days from the date of invoice.

Checks or payments can be mailed to Evergreen’s address above or made by ACH arrangements by calling Finance Department, [receivables@evergreen.energy](mailto:receivables@evergreen.energy), Claire Kean, (971) xxx-yyyy.

## Budgets

The table below is provided as an example and approximation for generating the annual budget. All invoices will follow the rate table listed above.

Task Description:	Evergreen Consulting Group Hours				Total Cost
	Eric (Director)	Mike Porter (or Sr. Program Manager)	Energy Specialist	Other	
Monthly site visit to CoS service area for pre & post lighting & HVAC verifications, and trade ally support (up to 1 day/month)			96		\$ 11,904.00
Office followup with cust & trade allies-review audits, approve & notify trade allies's (4 hrs /month)			36		\$ 4,464.00
Supervision, project files and final Lighting Calculator, HVAC and Residential program completion, project tracking & followup with trade allies & BPA submittal		60			\$ 9,120.00
Directing project	6				\$ 1,074.00



Expenses (ODC, Travel)				\$500.00
Subtotals (rounded for contract value)	6	60	132	\$ 27,062.00 (\$27,000)

Budget Assumptions:

- Staff assigned may change over time, Evergreen will notify Client of any personal changes and backup information as necessary including rates for those individuals.
- CoS pays incentives to customers & Evergreen completes data entry into the BPA BEETS system

### Addendums/Dates

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Amendments to this agreement to change dates, total contract amount, and scope can be made or extended with mutual agreement to both parties. A new Attachment (Scope of Work) for additional services can be included with appropriate General Services Agreement modification and signatures for each change order or amendment. This contract can be extended for 2-years from signature date (with addendums). Any amendments, addendums, extensions or other changes shall be agreed upon and must be in writing signed by both parties.