



City of SeaTac

Council Study Session Agenda

October 8, 2013
4:00 PM

City Hall
Council Chambers

CALL TO ORDER:

PUBLIC COMMENTS (related to the agenda items listed below): (Speakers must sign up prior to the meeting. Public Comments shall be limited to a total of ten minutes with individual comments limited to three minutes and a representative speaking for a group of four or more persons in attendance shall be limited to ten minutes. However, the Mayor or designee may reduce equally the amount of time each speaker may comment so that the total public comment time does not exceed ten minutes. When recognized by the Mayor or his designee, walk to the podium, state and spell your name, and give your address [optional] for the record.)

- 1. Agenda Bill #3546; A Resolution adopting an Interlocal Agreement with Association of Washington Cities (AWC) Benefit Trust to provide self-insured health benefits to Participating Employees, their covered dependents and other beneficiaries (10 minutes)**

By: Human Resources Director Anh Hoang

- 2. PRESENTATIONS:**

- **Let's Move City Town and Counties Initiative (15 minutes)**

By: ORISE Tobacco Fellow Molly Reece

- **Discussion of Legislative Priorities (20 minutes)**

By: Assistant City Manager Gwen Voelpel / Gordon Thomas Honeywell Senior governmental Affairs Consultant Briahna Taylor

- **Surface Water Utility Rate Study (45 minutes)**

By: Stormwater Compliance Manager Don Robinett / FCS Group Principal John Ghilarducci / Herrera Environmental Matt Fontaine

- **Neighborhood Grant Program (15 minutes)**

By: Resource Conservation Neighborhood Programs Coordinator Trudy Olson

- **Public Safety Statistics (10 minutes)**

By: Assistant Fire Chief Brian Wiwel

ADJOURN:



City of SeaTac

Regular Council Meeting Agenda

October 8, 2013

6:30 PM

City Hall
Council Chambers

(Note: The agenda numbering is continued from the Council Study Session [CSS].)

CALL TO ORDER:

ROLL CALL:

FLAG SALUTE:

PUBLIC COMMENTS: (Speakers must sign up prior to the meeting. Individual comments shall be limited to three minutes. A representative speaking for a group of four or more persons in attendance shall be limited to ten minutes. When recognized by the Mayor or his designee, walk to the podium, state and spell your name, and give your address [optional] for the record.)

2. PRESENTATIONS (Continued):

- **Council Confirmation of Mayoral Re-appointment of Alice Belenski and Victoria Lockwood to the Senior Citizen Advisory Committee (5 minutes)**

By: Mayor Tony Anderson

- **Domestic Abuse Women's Network (Dawn) (5 minutes)**

By: Interim Executive Director Robbie Rohr, MSW

3. CONSENT AGENDA:

- **Approval of claims vouchers** (check nos. 104667 - 104858) in the amount of \$268,953.88 for the period ended October 4, 2013.
- **Approval of payroll vouchers** (check nos. 51769 – 51806) in the amount of \$563,964.39 for the period ended September 30, 2013.
- **Approval of payroll electronic fund transfers** (check nos. 78711 – 78897) in the amount of \$376,671.27 for the period ended September 30, 2013.
- **Approval of payroll wire transfer** (Medicare and Federal Withholding Tax) in the amount of \$75,058.13 for the period ended September 30, 2013.

Approval of Council Meeting Minutes:

- **Regular Council Meeting** held June 25, 2013

Agenda Items reviewed at the September 24, 2013 Council Study Session and recommended for placement on this Consent Agenda:

Agenda bill #3543; A Motion authorizing the final acceptance of the Angle Lake Park Phase II Construction

Agenda Bill #3540; A Motion authorizing the City Manager to execute an Agreement with Sound Transit to lease the upper floor of the parking garage at the SeaTac Center

4. PUBLIC HEARING:

- **Granting Comcast a non-exclusive franchise to continue operation of a cable television system in the City, and authorizing the City Manager to execute the franchise and a fiber use agreement**

By: Program Manager Soraya Lowry

(Note: Agenda Bill #3473 presentation will take place during the Public Hearing. Council action is scheduled for the October 22, 2013 Regular Council Meeting.)

Agenda Bill #3473 – A Resolution granting Comcast a non-exclusive franchise to continue operation of a cable television system in the City, and authorizing the City Manager to execute the franchise and a fiber use agreement

5. PUBLIC HEARING (Continued):

●Authorizing the City Manager to execute a Second Amendment to the Development and Transit Way Agreement for South Link Light Rail Project

By: Program Manager Soraya Lowry

(Note: Agenda Bill #3550 presentation will take place during the Public Hearing. Council action is scheduled for the October 22, 2013 Regular Council Meeting.)

Agenda Bill #3550 – A Resolution authorizing the City Manager to execute a Second Amendment to the Development and Transit Way Agreement for the South Link Light Rail Project

PUBLIC COMMENTS (related to Action Items and Unfinished Business): (Individual comments shall be limited to one minute and group comments shall be limited to two minutes.)

6. ACTION ITEM:

Agenda Bill #3539; A Motion authorizing the City Manager to execute a contract with CleanScapes, Inc. for Comprehensive Garbage, Recyclables and Compostables Collection (15 minutes)

By: Public Works Director Tom Gut / Resource Conservation/Neighborhood Programs Coordinator Trudy Olson / Epicenter Services Consultant Jeff Brown

UNFINISHED BUSINESS:

NEW BUSINESS:

CITY MANAGER'S COMMENTS:

COUNCIL COMMENTS:

EXECUTIVE SESSION:

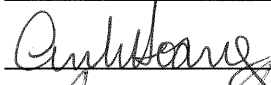
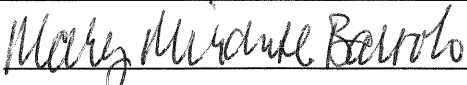
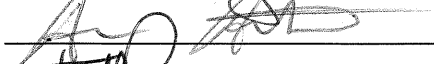
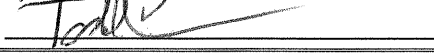
ADJOURN:

SeaTac City Council
REQUEST FOR COUNCIL ACTION

Department Prepared by: Human Resources

Agenda Bill #: 3546

TITLE: A Resolution adopting an Interlocal Agreement (ILA) with the Association of Washington Cities (AWC) Benefit Trust to provide self-insured health benefits to Participating Employees, their covered dependents and other beneficiaries, and authorizing the City Manager to execute the agreement on behalf of the City.

| | |
|--|---|
| September 30, 2013 | |
| ___ Ordinance <input checked="" type="checkbox"/> Resolution ___ Motion ___ Info. Only ___ Other | |
| Date Council Action Requested: | RCM 10/22/2013 |
| Ord/Res Exhibits: | Exhibit A—Interlocal Agreement |
| Review Dates: | CSS 10/8/2013 |
| Prepared By: | Anh Hoang, Human Resources Director |
| Director: |  |
| City Attorney: |  |
| Finance: |  BARS #: N/A |
| City Manager: |  Applicable Fund Name: N/A |

77
154

SUMMARY: The proposed Resolution authorizes the City Manager to execute an Interlocal Agreement with AWC to provide health benefits to the City.

DISCUSSION / ANALYSIS / ISSUES: The AWC Benefit Trust Board of Trustees instructed AWC staff and consultants to proceed with a self-insurance application to the State Risk Manager for its insurance programs through Regence, Group Health, Washington Dental Service and Vision Service Plan. The State Risk Manager approved the Trust's application for self-insurance to be effective January 1, 2014.

The City of SeaTac is a member of the AWC Benefit Trust, wherefrom we purchase health insurance, including medical, dental, and vision insurance, for eligible employees and their family members. In order for the City to continue purchasing our health insurance from AWC, the City must approve, by resolution, an Interlocal Agreement authorizing participation in the self-insured program. Our adopted resolution must be signed and returned to AWC no later than November 15, 2013 for us to be insured through the AWC Trust for 2014. A copy of the Interlocal Agreement is attached to the Resolution as Exhibit A. A Fact Sheet regarding self-insurance is attached to this Agenda Bill as Attachment #1.

This change will have minimal impact to employees and the City, as the employer, as the provider networks, the claims processors and the due date for premiums will not change. One possible impact is that insured members may receive a new ID card in January 2014.

RECOMMENDATION(S): It is recommended that the Resolution be adopted.

FISCAL IMPACT: As a result of AWC's transition to self-insurance, their adopted 2014 rates for medical, dental and vision insurance will have 0% increase.

ALTERNATIVE(S): None. The Interlocal Agreement is required to be adopted so that the City can maintain health insurance benefits through AWC.

ATTACHMENTS: 1) AWC Benefit Trust "Self-Funded Health Care Program" fact sheet.

RESOLUTION NO. _____

A RESOLUTION of the City Council of the City of SeaTac, Washington adopting an Interlocal Agreement between the City and the Association of Washington Cities (AWC) Benefit Trust to provide self-insured health benefits to Participating Employees, their covered dependents and other beneficiaries, and authorizing the City Manager to execute the agreement on behalf of the City.

WHEREAS, the Association of Washington Cities Employee Benefit Trust (the “Trust”) is an entity to which contributions by cities and towns and non-city entities organized and existing under the Constitution or laws of the State of Washington and who are members of the Trust (“Participating Cities and Towns,” and “Participating Non-City Entities”) and their employees can be paid and through which the Board of Trustees of the Trust (“Trustees”) provides one or more insured health and welfare benefit plans or programs to Participating Cities and Towns’ and Non-City Entities’ employees, their dependents and other beneficiaries (“Beneficiaries”), on whose behalf the contributions were paid; and

WHEREAS, the Trust qualifies as a voluntary employee beneficiary association within the meaning of Section 501(c)(9) of the Internal Revenue Code, providing for the payment of life, sick, accident or other benefits to Beneficiaries; and

WHEREAS, the Trust and Participating Cities and Towns and Non-City Entities have determined that it is in the best interest of Participating Cities and Towns and Non-City Entities to jointly self-insure certain health benefit plans and programs for Beneficiaries through a designated account within the Trust, while at the same time having the Trust continue as the entity to which other insured health and welfare benefit program contributions are paid and through which insured health and welfare benefit plans and programs are provided to Beneficiaries; and

WHEREAS, it appears economically feasible and practical for the parties to do so; and

WHEREAS, Chapter 48.62 RCW provides that two or more local government entities may, by Interlocal agreement under chapter 39.34 RCW, jointly self-insure health benefit plans and programs, and/or jointly hire risk management services for such plans or programs by any one or more of certain specified methods; and

WHEREAS, the Association of Washington Cities Employee Benefit Trust Interlocal Agreement (the “Interlocal Agreement”) attached hereto creates a joint self-insured health and welfare benefit program (the “Health Care Program”) to be administered by the Trustees for the purposes of providing self-insured health benefits to Beneficiaries; and

WHEREAS, WAC 200-110-030 requires every local government entity participating in a joint self-insurance health and welfare benefit program to adopt such program by resolution; and

WHEREAS, Chapter 48.62 requires Health Care Program assets to be managed consistent with existing authority over use of municipal funds in RCW 35.39.030. The Trust will manage Health Care Program reserves in compliance with Chapter 48.62 RCW; RCW 35.39.030, and the Health Care Program Investment Policy; and

WHEREAS, all premium contributions for use in the Health Care Program are deposited into a designated account within the Trust, the Health Care Program Account (the “HCP Account”), and the HCP Account represents a pool of funds that is independent of all other Trust or AWC funds; and

WHEREAS, the Trust intends to manage the HCP Account assets in compliance with federal and state laws and the Interlocal Agreement; and

WHEREAS, the City of SeaTac believes it is in the best interest of the Health Care Program to allow the Trust to manage the HCP Account;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC,

WASHINGTON HEREBY RESOLVES as follows:

1. The Interlocal Agreement attached as Exhibit A creating the Health Care Program is hereby adopted and the City Manager is authorized to execute the agreement on behalf of the City;
2. That by adopting such Agreement, the City of SeaTac acknowledges that it shall be subject to assessments as required by the Health Care Program.

PASSED this _____ day of _____, 2013 and signed in authentication thereof on this _____ day of _____, 2013.

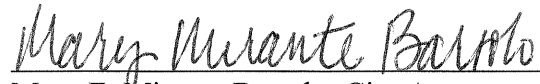
CITY OF SEATAC

Tony Anderson, Mayor

ATTEST:

Kristina Gregg, City Clerk

Approved as to Form:



Mary E. Mirante Bartolo, City Attorney

[AWC-EBT-HCPMemberResolution-2013]

**ASSOCIATION OF WASHINGTON CITIES EMPLOYEE BENEFIT TRUST
HEALTH CARE PROGRAM
INTERLOCAL AGREEMENT**

This Agreement is made and entered into in the State of Washington by and among the Association of Washington Cities Employee Benefit Trust (the "Trust") and cities and towns, and non-city entities organized and existing under the Constitution or laws of the State of Washington and who are members of the Trust ("Participating Cities and Towns," or "Participating Non-City Entities"), all of whom are signatories to this Agreement.

RECITALS

WHEREAS, the Trust is an entity to which contributions by Participating Cities and Towns and Non-City Entities (defined below) and Participating Employees (defined below) are paid and through which the Board of Trustees provides one or more insured health and welfare benefit plans or programs to Participating Employees, their covered dependents and other beneficiaries ("Beneficiaries"), on whose behalf the contributions were paid; and

WHEREAS, the Trust qualifies as a voluntary employee beneficiary association within the meaning of Section 501(c)(9) of the Internal Revenue Code ("VEBA"), providing for the payment of life, sick, accident or other benefits to Beneficiaries; and

WHEREAS, the Trust and the Participating Cities and Towns have determined that it is in the best interest of Participating Cities and Towns to jointly self-insure certain health benefit plans and programs for Beneficiaries through a designated account within the Trust, while at the same time having the Trust continue as the entity to which health and welfare benefit plan or program contributions are paid and through which insured health and welfare benefit plans and programs are provided to Beneficiaries; and

WHEREAS, it appears economically feasible and practical for the parties to this Agreement (defined below) to do so; and

WHEREAS, Chapter 48.62 RCW provides that two or more local government entities may, by Interlocal agreement under Chapter 39.34 RCW, jointly self-insure health benefit plans and programs, and/or jointly hire risk management services for such plans or programs by any one or more of certain specified methods; and

WHEREAS, each local government entity that is a signatory hereto, as required by WAC 200-110-030, acts upon the authority of a resolution adopting this Agreement and the Health Care Program (defined below) created herein;

NOW, THEREFORE, for and in consideration of all of the mutual benefits, covenants and agreements contained herein, the parties hereto agree as follows:

EXHIBIT "A"

ARTICLE 1

DEFINITIONS

The following are definitions of terms used in the Agreement. Unless indicated otherwise, other terms are defined where they are first used. Defined terms are capitalized when used in the defined context.

- 1.1 **Agreement** means this Interlocal Agreement entered into under the authority of Chapter 39.34 RCW and as required by RCW 48.62.031(2) between the Trust and Participating Employers.
- 1.2 **Association of Washington Cities** or **AWC** means the Association of Washington Cities, a not-for-profit membership association established pursuant to the laws of the state of Washington for the purpose of providing various services to and on behalf of its member cities.
- 1.3 **Association of Washington Cities Employee Benefit Trust** or the **Trust** means the trust and all property and money held by such entity, including all contract rights and records, established for the sole purpose of providing life, sick accident or other health and welfare benefits to Participating Employees, their covered dependents and other beneficiaries, and which is approved by the Internal Revenue Service as a VEBA.
- 1.4 **Employee Benefits Advisory Committee** or **EBAC** means the committee defined in Article V of the Trust Agreement that may be delegated responsibility by the Board of Trustees, including but not limited to: overseeing the operations of the Health Care Program, analyzing and developing annual premium levels and benefit coverage changes for recommendation to the Board of Trustees and performing other duties necessary to ensure that the needs of Participating Employers are met and the long-term financial health of the Health Care Program is maintained.
- 1.5 **Health Care Program** means the joint self-insurance program offering self-insured health benefit options through the HCP Account.
- 1.6 **HCP Account** means a designated account within the Trust and created by this Agreement, the Trust Agreement and Trust Health Care Program policies all under the authority of Chapter 48.62 RCW to provide self-insured health benefits to Participating Employees, their covered dependents and other beneficiaries and further described in Article 6.
- 1.7 **Non-City Entity** means any public agency, public corporation, intergovernmental agency or political subdivision, within the state of Washington that meets the requirements of Article IX, Section 1(c)(ii) and (iii) of the Trust Agreement for participation in the Health Care Program.
- 1.8 **Participating City** means any city or town within the state of Washington that meets the requirements of Article IX, Section 1(a) or Section 1(b) of the Trust Agreement.

- 1.9 **Participating Employee** means any individual employed by a Participating Employer and for whom the Participating Employer makes contributions to the Trust, and any individual who may have been so employed but is subsequently laid off, terminated, or retired.
- 1.10 **Participating Employer** means a Participating City or Non-City Entity that is also a party to this Agreement.
- 1.11 **Resolution** means the resolution adopted by each Participating City or Non-City Entity that authorizes the Health Care Program.
- 1.12 **State Risk Manager** or **Risk Manager** means the risk manager of the Risk Management Division within the Department of Enterprise Services.
- 1.13 **Stop Loss Insurance** or **Reinsurance** means a promise by an insurance company that it will cover losses of the Health Care Program over and above an agreed-upon individual or aggregated amount, which definition shall be modified by any changes to the definition of stop loss insurance in WAC 200-110-020.
- 1.14 **Third-Party Administrator** means the independent association, agency, entity or enterprise which, through a contractual agreement, provides one or more of the following ongoing services to the Health Care Program: pool management or administration services, claims administration services, risk management services, or services for the design, implementation, or termination of an individual or joint self-insurance program.
- 1.15 **Trust Agreement** means the Trust Agreement Governing the Trust amended and restated July 1, 2013, and any subsequent amendments thereto.
- 1.16 **Trustees** or **Board of Trustees** means the following individuals and their successors, who together, govern the Trust and the Health Care Program:
- 1.16.1 the AWC President and the AWC Vice President;
 - 1.16.2 the EBAC Chair and the EBAC Vice Chair; and
 - 1.16.3 an individual elected pursuant to the procedures in Article III, Section 5 of the Trust Agreement to serve as the trustee from one of the following regions:
 - (a) North East Region (known as the “North East Region Trustee”);
 - (b) North West Region (known as the “North West Region Trustee”);
 - (c) South East Region (known as the “South East Region Trustee”); and
 - (d) South West Region (known as the “South West Region Trustee”).

Individuals from Non-City Entities are not eligible to serve as Trustees.

ARTICLE 2

PURPOSE

This Agreement is entered into for the purpose of authorizing the Health Care Program created by the Trust to provide self-insured health benefits to Participating Employees, their covered dependents and other beneficiaries. The Health Care Program shall comply with the statutory provisions found in Chapters 48.62 and 39.34 RCW and the regulatory requirements contained in WAC 200-110 applicable to joint self-insurance programs.

ARTICLE 3

PARTIES

Each party to this Agreement certifies that it intends to participate in the Health Care Program. Participating Employers are signatories of this Agreement to become effective on a date to be mutually determined (the "Effective Date") and with such other Participating Cities and Non-City Entities as may later be added to and become signatories to this Agreement.

ARTICLE 4

DURATION OF AGREEMENT

- 4.1 This Agreement shall become effective on the Effective Date.
- 4.2 This Agreement shall have perpetual duration unless terminated as hereinafter provided.

ARTICLE 5

MEMBERSHIP COMPOSITION

The Health Care Program shall be open to Participating Cities and Non-City Entities. Participation in the Health Care Program is voluntary and not a requirement of AWC membership. The Board of Trustees shall provide for the reasonable admission of new Participating Cities and Non-City Entities.

ARTICLE 6

HCP ACCOUNT

- 6.1 All premium contributions by Participating Employers, Non-City Entities and Participating Employees for use in the Health Care Program are deposited into the HCP Account.
- 6.2 The HCP Account represents a pool of funds that is independent of all other Trust or AWC funds and independent of all other Participating Employer and Non-City Entity funds. The funds deposited into the HCP Account are held, managed and expended only for the Health Care Program and reasonable expenses, consistent with applicable state

and federal statutes and rules governing joint self-insurance programs and self-insurance programs generally.

- 6.3 The HCP Account is subject to audit by the State Auditor's Office.

ARTICLE 7

TRUSTEE POWERS RELATED TO HEALTH CARE PROGRAM

The Board of Trustees is provided with the powers and functions established under RCW 48.62.031 to accomplish the following:

- 7.1 Promote the economical and efficient means by which health benefits coverage is made available to Participating Employers and Non-City Entities and provided to Participating Employees, their covered dependents and other beneficiaries;
- 7.2 Protect the financial integrity of the Health Care Program through purchase of Stop Loss Insurance or Reinsurance in such form and amount as needed;
- 7.3 Contract for or otherwise provide risk management and loss control services;
- 7.4 Contract for or otherwise provide legal counsel for the defense of claims and other legal services;
- 7.5 Consult with the state insurance commissioner and the State Risk Manager;
- 7.6 Obligate the Participating Employers and Non-City Entities to pledge revenues or contribute money to secure the obligations or pay the expenses of the Health Care Program, including the establishment of a reserve or fund for coverage; and
- 7.7 Exercise all other powers and perform all other functions reasonably necessary to carry out the purposes of the Health Care Program, Chapter 48.62 RCW and Chapter 200-110 WAC.

ARTICLE 8

ORGANIZATION OF HEALTH CARE PROGRAM

- 8.1 The operations of the Health Care Program are managed by the Board of Trustees or its delegates. The Trustees or any delegates review and analyze Health Care Program-related matters and make operational decisions regarding premium contributions, reserves, plan options and benefits in compliance with Chapter 48.62 RCW.
- 8.2 The Board of Trustees has decision authority consistent with the Trust Agreement, Health Care Program policies, Chapter 48.62 RCW and Chapter 200-110 WAC.

ARTICLE 9

RESPONSIBILITIES OF THE TRUSTEES

- 9.1 The Board of Trustees shall discharge its responsibilities under this Agreement as follows:
- 9.1.1 Provide for the efficient management and operation of the Health Care Program;
 - 9.1.2 Provide for health benefit coverage options for Participating Employees, their covered dependents and other beneficiaries;
 - 9.1.3 Determine the level of Stop Loss Insurance or Reinsurance coverage for claims expenses above the amounts deemed appropriate for self-insurance;
 - 9.1.4 Ensure that the Health Care Program meets required state and federal statutes and rules;
 - 9.1.5 Contract with vendors required to meet the responsibilities established by the Trust Agreement, Health Care Program policies, and applicable state and federal statutes and rules;
 - 9.1.6 Maintain the balance between meeting the Health Care Program needs of Participating Employers and the long-term financial integrity of the Health Care Program;
 - 9.1.7 Prepare an annual financial report on the operations of the Health Care Program; and
 - 9.1.8 Provide for other services deemed appropriate by the Board of Trustees to meet the purposes of this Agreement.
- 9.2 The Board of Trustees may delegate the responsibilities described in this Article 9 to the EBAC or other delegates at its complete discretion.

ARTICLE 10

RESPONSIBILITIES OF THE PARTICIPATING EMPLOYERS

In order to participate in the Health Care Program, Participating Employers shall:

- 10.1 Be a Participating City or Non-City Entity in good standing and comply with the requirements of admission or qualification as established by the Board of Trustees;
- 10.2 Adopt this Agreement by Resolution, agreeing to its terms and provisions;
- 10.3 Submit the Resolution and Agreement to the Trust;

- 10.4 Read the terms, conditions and representations set forth in the application agreement related to participation in the Health Care Program;
- 10.5 Designate an employee of the Participating Employer to be a contact person for all matters relating to the Participating Employer's participation in the Health Care Program;
- 10.6 Pay premiums for the Health Care Program to the Third-Party Administrator no later than the tenth day of the month in which the premium is due;
- 10.7 By formal action of the legislative body of the Participating Employer, approve policies and procedures necessary to secure protected health information ("PHI") in accordance with Chapter 70.02 RCW and the Health Insurance Portability and Accountability Act ("HIPAA") privacy and security rules, codified at 45 C.F.R. Parts 160-164;
- 10.8 Provide the Health Care Program with such information or assistance as is necessary for the Health Care Program to meet its responsibilities under this Agreement; and
- 10.9 Cooperate with and assist the Health Care Program and any insurer of Stop Loss Insurance or Reinsurance, in all matters relating to the administration and operation of the Health Care Program and all matters relating to this Agreement.
- 10.10 Comply with all bylaws, rules, regulations and policies adopted by the Board of Trustees relating to the Health Care Program.

ARTICLE 11

RESERVE FUND INVESTMENT

All reserve fund investments from the HCP Account shall be made in a manner that is consistent with RCW 48.62.111, Chapter 39.59 RCW, WAC 200-110-090 and the Health Care Program Investment Policy.

ARTICLE 12

FINANCIAL RECORDS

- 12.1 The Board of Trustees shall develop estimated revenue and expenditures to establish a budget for each fiscal year covering January 1 through December 31 annually. Actual Health Care Program revenues and expenditures shall be monitored monthly by the Board of Trustees and reported at its quarterly meetings.
- 12.2 The accounting records of the Health Care Program are maintained in accordance with methods prescribed by the State Auditor's office under the authority of Chapter 43.09 RCW. The Health Care Program also follows applicable accounting standards established by the Governmental Accounting Standards Board ("GASB"). Year-end financial reporting is done on an accrual basis and submitted to the Office of the State Auditor as required by Chapter 200-110 WAC. Once reviewed and approved by the

Office of the State Auditor the year-end financial report is transmitted to the Office of the State Risk Manager.

- 12.3 Financial records of the Health Care Program shall be subject to audit by the Office of the State Auditor. Year-end financial reports and audit results shall be made available to interested parties. The Health Care Program shall provide financial information as required by state statute and rule to the Office of the State Risk Manager.

ARTICLE 13

PARTICIPATING EMPLOYER TERMINATION AND WITHDRAWAL

- 13.1 A Participating Employer must remain in good standing with the Trust and adhere to the requirements of this Agreement. In the event that a Participating Employer fails to be a Participating City or Non-City Entity in good standing, participation in the Health Care Program shall automatically terminate without notice as shall all health and welfare benefits provided through the Health Care Program.
- 13.2 The Board of Trustees may take action to terminate membership or deny membership in the Health Care Program where it determines that such termination or denial is in the best interest of the Health Care Program
- 13.3 When a Participating Employer's eligibility in the Health Care Program is affected due to merger or annexation, the affected Participating Employer may petition the Board of Trustees to remain in the Health Care Program.
- 13.4 A Participating Employer may only withdraw its participation in the Health Care Program at the end of the calendar year and must provide written notice to the Trust at least thirty-one (31) days in advance of the end of the calendar year (December 31st).
- 13.5 In the event of withdrawal or non-renewal, the Health Care Program will cover any of the Participating Employer's remaining outstanding Health Care Program claims expenses incurred prior to the Participating Employer's withdrawal from or non-renewal in the Health Care Program.
- 13.6 No Participating Employer, because of withdrawal or any other reason, has any right or interest in the HCP Account because of its nature as a rate stabilization fund. In the event any Participating Employer withdraws from the Health Care Program, its Participating Employees, their covered dependents and other beneficiaries and any Consolidated Omnibus Budget Reconciliation Act of 1985 as amended (COBRA) participants and contract personnel and dependents approved by the Board of Trustees, shall forfeit all right and interest to the HCP Account.

ARTICLE 14

TERMINATION OF HEALTH CARE PROGRAM

- 14.1 In the event the Health Care Program is terminated, the Board of Trustees shall distribute the remaining funds in the HCP Account to the Trust or any successor association authorized by Chapter 39.34 RCW for like purposes for use in any program with similar purposes.
- 14.2 Upon termination, this Agreement and the HCP Account shall continue for the purpose of paying remaining outstanding claims and expenses and fulfilling all other functions necessary to complete the business of the Health Care Program.

ARTICLE 15

MEETINGS, NOTICES AND COMMUNICATIONS

- 15.1 The Board of Trustees and the EBAC, if any responsibilities for Trust management have been delegated thereto, shall provide notice of their regular and special meetings and hold their meetings in accordance with Chapter 42.30, RCW Open Public Meetings Act.
- 15.2 Communications with Participating Employers may occur using mail, email or posting on the Health Care Program website. The website shall be partitioned to provide information for the general public and information specific to Participating Employers and their employees.
- 15.3 Communications may come directly from the Health Care Program, through the Third-Party Administrator or through another vendor on behalf of the Health Care Program.

ARTICLE 16

AMENDMENTS TO INTERLOCAL AGREEMENT

- 16.1 The Board of Trustees shall review and analyze any proposed amendment to this Agreement. An amendment may be proposed for review by any party to this Agreement.
- 16.2 The Board of Trustees upon its discretion may take action by resolution on any amendment at any regular meeting of the Board of Trustees.

ARTICLE 17

PROHIBITION ON ASSIGNMENT

- 17.1 No Participating Employer may assign any right or claim of interest it may have under this Agreement.

- 17.2 No creditor, assignee or third-party beneficiary of any employer shall have the right, claim or title to any party, share, interest, premium or asset of the Trust, HCP Account or the Health Care Program.

ARTICLE 18

HEALTH CLAIM DISPUTES AND APPEALS

In the event that a dispute arises over a health claim, the procedures, adjudication requirements and administrative remedies shall be found in the Health Care Program's plan document applicable to the Health Care Program covering the claimant.

ARTICLE 19

PLAN ADMINISTRATION DISPUTES AND APPEALS

- 19.1 In the event that a dispute arises between a Participating Employer and the Health Care Program, the Participating Employer shall document the circumstances causing the dispute and submit a written request for review of the disputed circumstances to the Board of Trustees. Upon review of such information, the Board of Trustees shall attempt to resolve the dispute.
- 19.2 If the Board of Trustees' resolution to the dispute is deemed unsatisfactory, then alternative dispute resolution through mediation or binding arbitration may be necessary.

ARTICLE 20

ENFORCEMENT OF TERMS OF AGREEMENT

- 20.1 The Board of Trustees may enforce the terms of this Agreement.
- 20.2 In the event legal action is initiated to enforce any term or provision of this Agreement against any present or previous Participating Employer, the prevailing party shall receive such reimbursement of costs as the court deems reasonable for attorneys' fees and costs related to the relevant legal action.

ARTICLE 21

DEFAULT

- 21.1 If any Participating Employer fails to perform any term or condition of this Agreement and such failure continues for a period of sixty (60) days after the Board of Trustees has given the Participating Employer written notice describing such failure, the Participating Employer shall be considered in default.
- 21.2 Upon default, the Board of Trustees may immediately cancel the Participating Employer's participation in the Health Care Program without additional notice or exercise some other remedy otherwise provided by law.

- 21.3 The rights and remedies of the Board of Trustees are cumulative in nature and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available hereunder or otherwise available by law.

ARTICLE 22

NO WAIVERS

No waiver or forbearance of a breach of any covenant, term, or condition of this Agreement shall be construed to be a waiver or forbearance of any other or subsequent breach of the same or of any other covenant, term or condition, and the acceptance of any performance hereunder, or the payment of any sum of money after the same has become due or at a time when any other default exists hereunder, shall not constitute a waiver or right to demand payment of all sums owing or a waiver of any other default then or thereafter existing.

ARTICLE 23

CONTRACT MANAGEMENT

The Health Care Program shall designate a person to whom the State Risk Manager shall forward legal process served upon the Risk Manager; **The AWC Chief Executive Officer** (designee or successor). **The Health Care Program Director** shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

ARTICLE 24

SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

ARTICLE 25

COUNTERPART COPIES

This Agreement may be signed in counterpart or duplicate copies and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

ARTICLE 26

HEADINGS

The Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in the interpretation of the contents of the Articles and Sections they introduce.

ARTICLE 27

AGREEMENT COMPLETE

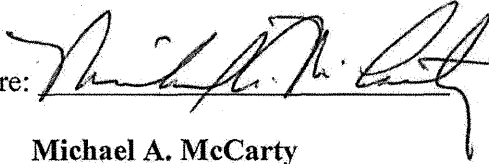
This Agreement and the documents referenced herein contains all the terms and conditions agreed to by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement.

**Association of Washington Cities
Employee Benefit Trust**

Participating Employer

Signature: 

Name: **Michael A. McCarty**

Title: Chief Executive Officer

Date: August 30, 2013

Signature: _____

Name (print): _____

Title: _____

Date: _____

Effective Date: January 1, 2014



Self-Funded Health Care Program

On August 26, 2013, the State Risk Manager approved the AWC Trust's application to self-insure the medical plans through Group Health and Regence Blue Shield, the Vision Service Plan, and Washington Dental Service plan effective January 1, 2014. The remaining insurance products will continue to be fully-insured. This fact sheet is intended to provide background of the Trust and insight into the Board of Trustee conversation ultimately leading to the decision to self-insure.

Trust history

The AWC Employee Benefit Trust is a Voluntary Employees' Beneficiary Association (VEBA), as defined in IRC 501 (c) (9). The Trust was formed in 1970 by the Association of Washington Cities to offer affordable coverage for its cities and towns with participants in Law Enforcement Officers and Fire Fighters Pension Plan 1 (LEOFF 1). Since that time, the Trust has broadened its insured membership to include all walks of municipal government and their families. Today, the Trust serves 275 participating entities and insures approximately 36,000 employees and family members.

The Trust currently offers medical, dental, vision, employee assistance program, life insurance, long-term disability insurance, and long-term care insurance.

In 1984, the Board of Trustees proved to be true visionaries in the health care industry and adopted an innovative health promotion project (wellness) as a cost containment tool. Today, the award-winning Total Health Management services of the Trust (available to Regence and Group Health medical subscribers) continues to reduce health care costs and improve quality of life for our insured members.

The AWC Trust, one of the first of its kind as a municipal league pool, is nationally recognized for excellence and innovation. Industry respect and long-term, stable relationships with insurance carriers, vendors, and consultants have benefited the pool members with quality health care programs, trust-worthy technical assistance and financial predictability. Customer advocacy and member-driven decisions continue to be the cornerstone of the Trust mission, vision and goals.

Planning retreat priority: self-insurance

As one of the highest priorities emerging from the 2011 Long Range Strategic Planning Retreat, the Trustees dedicated its 2013 meetings to learning about the world of self-insurance; hearing in-depth analysis from benefit, legal and actuarial consultants; and weighing the pros and cons of self-insuring the health care plans.

On July 25, Trustees instructed staff and consultants to proceed with a self-insurance application to the State Risk Manager. Approval was granted on August 26, and the Trust will transition its **Regence/Asuris, Group Health, WDS and VSP** plans to self-insurance effective January 1, 2014.

Self-insurance means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

Cost savings

One of the overriding factors in the decision is the potential for cost savings to members. Self-insurance allows the Trust to eliminate several taxes mandatory for fully insured plans including a 2% state tax and a 2% - 3% new 2014 federal insurer tax. While our retention and stop loss fees were extremely competitive as a fully insured plan, these fees were also lowered with the aid of a competitive self-insurance marketplace. Along with all these cost savings, we'll be able to focus on our own trend line, which has been lower than carriers' trends for many years. This bodes well for not only this year's rate projections, but future year's as well.

continued

The transition to self-insurance will not change the manner in which plans are rated (i.e., the Trust will continue to pool all member claims rather than develop rates based upon individual employer loss experience). However, the discussion of large city claims rating is slated to be discussed by the Board of Trustees in 2014, and being self-insured certainly enables a broader scope of analysis.

With all these factors considered, the Trust's 2014 rate projections are very favorable with 0% increase projected for most plans.

| Self-insurance plans | | Fully-insured plans | |
|------------------------|----|---------------------------------|----|
| Regence/Asuris Medical | 0% | LEOFF I Medicare Advantage Plan | 8% |
| Group Health Medical | 0% | Willamette Dental | 0% |
| WDS Dental | 0% | Life & LTD | 0% |
| VSP Vision | 0% | EAP | 0% |

Final rates will be adopted by the Board of Trustees on September 26. Look to our website by end of day on Friday, September 27, for an updated posting.

WellCity rate impact

The WellCity discount is 2% less than the base rate. Ongoing WellCity Award recipients - your current rate will be 2% less than the base rate - which means your rate stays the same. For cities earning the 2013 WellCity Award for the first time, you'll get a 2% discount on the 2014 base rate, meaning your rate this year is actually a 2% savings from your 2013 rate.

Employee impacts

For now, know that the impact to employees and their family members is minimal to none:

- Benefit plan designs remain the same, including the mandated benefit changes under the ACA for 2014
- Employees have access to the same provider networks.
- Claims will be processed by the same carriers.
- It is possible that a new ID card will be generated.

Member employer impacts

Impact to employers is equally minimal:

- Members will still be part of the Trust's large pool, which will now be self-insured.
- The monthly bill will still be generated by NWA and due at the same time as current (by the 10th of the month).
- The most notable change for employers will be the council-adoption by resolution of an Interlocal Agreement between the jurisdiction and the AWC Trust.

Interlocal Agreement

RCW 48.62 authorizes local government entities to self-insure for health care benefits, and delegates rule-making authority and oversight to the Washington State Risk Manager. Chapter 200-110 Washington Administrative Code sets forth that members of the health care program (pool) must be a signatory to the health care program's Interlocal Agreement, and the Interlocal Agreement must be adopted by the local governing body by resolution.

In order for the Trust to meet the state deadlines, member jurisdictions must provide the adopted resolution and Interlocal Agreement no later than **November 15, 2013**.

AWC Employee Benefit Trust Health Care Program reserve funding

Self-insured health care programs must establish reserves necessary to fund the termination costs of the program and to insulate the program against unusual severity or frequency of claims. The Board of Trustees have pledged reserve funds pursuant to actuarially established amounts to satisfy this requirement.

| Health Care Program 2014 financials at a glance | |
|---|----------------------|
| Beginning program deposits/assets ¹ | \$15,420,000 |
| Projected employer contributions | \$174,672,167 |
| Projected employee contributions | \$19,408,091 |
| Other projected revenues | \$308,400 |
| Total projected revenues | \$194,388,586 |
| Projected claims payments | \$179,155,972 |
| Projected operational expenses ² | \$12,334,777 |
| Projected Stop Loss Insurance Policy | \$813,875 |
| Projected Wellness Program expenses | \$1,775,561 |
| Total projected annual expenses | \$194,080,186 |
| Projected year-end program assets/reserves | \$15,728,400 |

¹Projected reserves as of December 31, 2013 are \$75,471,971 of which \$15,420,000 are pledged as beginning health care program assets.

²Includes claims adjudication, broker fee-for-service, actuary, legal, consultants, and operations.

Questions

As always, the Trust is committed to communicating with members. You can expect ongoing communications in upcoming **For Your Health** e-newsletters. If you have any questions regarding the Trust's decision to self-insure, the new rate projections, or the Interlocal Agreement feel free to contact an AWC Trust staff member at 1-800-562-8981 or benefitinfo@awcnet.org.

2. PRESENTATIONS:

- **Let's Move City Town and Counties Initiative (15 minutes)**

By: ORISE Tobacco Fellow Molly Reece

- **Discussion of Legislative Priorities (20 minutes)**

By: Assistant City Manager Gwen Voelpel / Gordon Thomas Honeywell Senior governmental Affairs Consultant Briahna Taylor

- **Surface Water Utility Rate Study (45 minutes)**

By: Stormwater Compliance Manager Don Robinett / FCS Group Principal John Ghilarducci / Herrera Environmental Matt Fontaine

- **Neighborhood Grant Program (15 minutes)**

By: Resource Conservation Neighborhood Programs Coordinator Trudy Olson

- **Public Safety Statistics (10 minutes)**

By: Assistant Fire Chief Brian Wiwel

RCM PRESENTATIONS

- **Council Confirmation of Mayoral Re-appointment of Alice Belenski and Victoria Lockwood to the Senior Citizen Advisory Committee (5 minutes)**

By: Mayor Tony Anderson

- **Domestic Abuse Women's Network (Dawn) (5 minutes)**

By: Interim Executive Director Robbie Rohr, MSW



MEMORANDUM

Date: October 4, 2013
To: City of SeaTac Mayor and Council
From: Kristina Gregg, City Clerk *KAG*
Subject: Consideration and Confirmation of Re-Appointments

Please be advised that the Mayor has selected the following individuals who he feels is best qualified to serve as members of the Senior Citizen Advisory Committee. No new applications were received from SeaTac residents, only from currently appointed members. The re-appointments are being presented at the October 8, 2013 Regular Council Meeting for your consideration and confirmation.

Re-Appointments:

Senior Citizen Advisory Committee:

- Alice Belenski to fill a term ending October 11, 2016
- Victoria Lockwood to fill a term ending October 11, 2016

Attachment: Applications

Cc: Senior Services Coordinator Kathleen Cummings



City of SeaTac

Citizen Advisory Committee

Application for Appointment

Applications are retained in the City Clerk's Office for one year from the date they are received.

I wish to be considered for appointment to the following committee:

- | | |
|--|--|
| <input type="checkbox"/> Civil Service Commission | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Human Services Advisory Committee | <input checked="" type="checkbox"/> Senior Citizen Advisory Committee (ages 55 and over) |
| <input type="checkbox"/> Library Advisory Committee | <input type="checkbox"/> Tree Board |
| <input type="checkbox"/> Other: _____ | |

If interested in more than one committee, please indicate your order of preference by numbering (i.e. 1, 2, 3).

Name: ALICE BELENSKI
 Address: 16634-32ND AVE. SOUTH Phone: 206-244-5896
 City: SEATAC State: WA Zip: 98188
 E-mail Address: A19BLUE@AOL.COM

Are you a SeaTac resident? Yes No 53 years

If student, please state grade:

Present Employer: RETIRED - WELLS FARGO BANK

Address: Phone:

City: State: Zip:

Date available for appointment to a committee: IMMEDIATELY

Can you attend: Evening meetings? Yes No Daytime meetings? Yes No

Approximately how many hours each month can you devote to City business? 30

Attach an additional page, if needed for any of the following information:

Have you previously served or are you currently on one of the committees listed above? Yes No

If yes, please explain: HAVE SERVED ON THE SENIOR ADVISORY COMMITTEE SINCE 2005

Professional and/or Community Activities: SEATAC CHILDREN'S HOSPITAL GUILD
SEATAC SENIOR ADVISORY COMMITTEE
SEATAC SENIOR PROGRAM AND SEATAC CITY HALL VOLUNTEER RECEPTIONIST
BURIEN LIBRARY GUILD

Please share your experiences/qualifications that relate to this committee and why you would like to be involved: _____

SEE NEXT PAGE

(continued on back side)

Serving on the SeaTac Senior Citizen Advisory committee since 2005 has been a positive experience. Helping to enhance the senior program and resolving senior issues presents a challenge I enjoy. The purchases made from our annual bazaar fund raising efforts have provided many additional items and improvements for the enjoyment of our seniors. I would like to remain on the committee and continue to be active in the efforts to maintain and improve our wonderful SeaTac Senior Program.

In addition to the same comments above which I also submitted on my Senior Citizen Advisory committee application in 2010, I would like to add that I have been a volunteer receptionist for the senior program at the SeaTac Community Center since 2005. This position provides a perfect opportunity to hear the seniors concerns and comments which can be shared with the committee.

If I am selected to serve for another term, I look forward to working with the other Senior Citizen Advisory Committee members to continue to improve an already exceptional SeaTac Senior Program.

Human Services Advisory Committee, Library Advisory Committee or Planning Commission Applicants:

Do you own or operate a business entity located within the City of SeaTac? Yes ___ No ___
Are you employed by a business entity located within the City of SeaTac? Yes ___ No ___

Business Name: _____

Business Address: _____ NA _____

Civil Service Commission Applicants:

You must meet all of the following criteria: You must be a citizen of the United States, a SeaTac resident for at least three (3) years immediately preceding the appointment, and a registered voter of SeaTac and King County. Do you meet all of the criteria? Yes ___ No ___ NA

Senior Citizen Advisory Committee Applicants:

Are you at least fifty-five (55) years of age? Yes No ___

Please list the days/evenings/times that would be most convenient for you to come to City Hall for an interview: DAYS - MONDAY, TUESDAY, THURSDAY

EVENINGS - MONDAY, WEDNESDAY, THURSDAY

If recommended, by whom: _____

Please return this form to:

City of SeaTac
City Clerk's Office
4800 South 188th Street
SeaTac, WA 98188-8605
206.973.4660

***Be advised, if you are selected for a committee you will be subject to a background investigation.**

Citizen Advisory Committee Applications are subject to public disclosure laws of the State of Washington (RCW.42.56), and if requested will be provided in its entirety.

I hereby certify that this application contains no willful misrepresentations and that the information is true and correct to the best of my knowledge.

Signature: Alice Belenski Date: 8/15/13

The City of SeaTac is an Equal Opportunity Employer

For office use only:

Date Interviewed: _____ Committee: Senior Citizen Adv. Comm.

Date Appointed: 11/07

Date Interviewed: _____ Committee: _____

Date Appointed: _____

Date Interviewed: _____ Committee: _____

Date Appointed: _____

Background Check: 9/22/10 Passed _____ Failed _____

JUL 29 2013

RECEIVED
CITY OF SEATAC



City of SeaTac Citizen Advisory Committee Application for Appointment

Applications are retained in the City Clerk's Office for one year from the date they are received.

I wish to be considered for appointment to the following committee:

- Civil Service Commission
- Human Services Advisory Committee
- Library Advisory Committee
- Other: _____
- Planning Commission
- Senior Citizen Advisory Committee (ages 55 and over)
- Tree Board

If interested in more than one committee, please indicate your order of preference by numbering (i.e. 1, 2, 3).

Name: Victoria Lockwood
 Address: 4235 S. 164th St. Phone: 206-244-5916
 City: SeaTac State: Wa Zip: 98188
 E-mail Address: LDLOCKWOOD@MSN.COM

Are you a SeaTac resident? Yes No

If student, please state grade: _____

Present Employer: Retired

Address: _____ Phone: _____

City: _____ State: _____ Zip: _____

Date available for appointment to a committee: Immediately

Can you attend: Evening meetings? Yes No Daytime meetings? Yes No

Approximately how many hours each month can you devote to City business? Flexible, will dedicate whatever time is needed
 Attach an additional page, if needed for any of the following information:

Have you previously served or are you currently on one of the committees listed above? Yes No

If yes, please explain: Appointed as an "Alternate" to Sr. Advisory Comm. Dec '12, then filled an opening for a regular unexpired term on this same committee in June '13, but committee has had no meetings since this last assignment

Professional and/or Community Activities: Volunteer @ USO, volunteer @ McMicken Elementary, write (3) different SeaTac neighborhood Crime Reports weekly, write monthly Retiree newsletter for +250 former WNG Co. retirees, member of "Secret Society of Happy People", help publicize an "All-year" school re-union annually

Please share your experiences/qualifications that relate to this committee and why you would like to be involved: Enjoy and respect our senior population. I appreciate their contributions & sacrifices to our world, and it's a pleasure to honor them. I am well-versed on Medicare & supplemental insurance, social security policies and can help others to make choices best for them. I truly like our Seniors!

(continued on back side)

Human Services Advisory Committee, Library Advisory Committee or Planning Commission Applicants:

Do you own or operate a business entity located within the City of SeaTac? Yes ___ No ___

Are you employed by a business entity located within the City of SeaTac? Yes ___ No ___

Business Name: _____

Business Address: _____

Civil Service Commission Applicants:

You must meet all of the following criteria: You must be a citizen of the United States, a SeaTac resident for at least three (3) years immediately preceding the appointment, and a registered voter of SeaTac and King County. Do you meet all of the criteria? Yes ___ No ___

Senior Citizen Advisory Committee Applicants:

Are you at least fifty-five (55) years of age? Yes No ___

Please list the days/evenings/times that would be most convenient for you to come to City Hall for an interview: Any evening except Friday, any days except Monday.

If recommended, by whom: _____

Please return this form to:

City of SeaTac
City Clerk's Office
4800 South 188th Street
SeaTac, WA 98188-8605
206.973.4660

***Be advised, if you are selected for a committee you will be subject to a background investigation.**

Citizen Advisory Committee Applications are subject to public disclosure laws of the State of Washington (RCW.42.56), and if requested will be provided in its entirety.

I hereby certify that this application contains no willful misrepresentations and that the information is true and correct to the best of my knowledge.

Signature: [Signature] Date: 7/29/2013

The City of SeaTac is an Equal Opportunity Employer

For office use only:

Date Interviewed: 10-18-12 Committee: Senior Citizen Adv. Comm.

Date Appointed: 11-13-12

Date Interviewed: 6/13/13 Committee: Senior Citizen Adv. Comm.

Date Appointed: 7/9/13

Date Interviewed: _____ Committee: _____

Date Appointed: _____

Background Check: 10/22/12 Passed _____ Failed

**PAYROLL/CLAIMS VOUCHERS WERE SENT
ELECTRONICALLY TO THE CITY COUNCIL**

**A HARD COPY OF THE VOUCHERS
CAN BE VIEWED IN THE CITY CLERK'S OFFICE**

**PAYROLL/CLAIMS VOUCHERS ARE ALSO
AVAILABLE ON OUR CITY WEBSITE**

www.ci.seatac.wa.us

City of SeaTac

Regular Council Meeting Minutes

June 25, 2013
6:30 PM

City Hall
Council Chambers

CALL TO ORDER: The SeaTac City Council Regular Meeting was called to order by Mayor Anthony (Tony) Anderson at 6:32 p.m.

COUNCIL PRESENT: Mayor Anthony (Tony) Anderson, Deputy Mayor (DM) Mia Gregerson, Councilmembers (CMs) Barry Ladenburg, Rick Forschler, Dave Bush, Pam Fernald, and Terry Anderson

STAFF PRESENT: City Manager Todd Cutts, City Attorney Mary Mirante Bartolo, Administrative Assistant 2 Zenetta Young, Police Chief Lisa Mulligan, Economic Development (ED) Manager Jeff Robinson, City Engineer Susan Sanderson, and Community and Economic Development (CED) Director Joe Scorcio

FLAG SALUTE: Mayor A. Anderson led the Council, audience and staff in the Pledge of Allegiance.

PUBLIC COMMENTS: Margie Rose commented on Agenda Bill #3516 requesting A1 and A2 be removed from the Final Docket of the Comprehensive Plan (CP) Amendments.

PRESENTATIONS

•Childhood Cancer Awareness Week Proclamation

Mayor A. Anderson proclaimed June 23 – 29 as Childhood Cancer Awareness Week.

CONSENT AGENDA:

•Approval of claims vouchers (check nos. 103337 - 103514) in the amount of \$772,319.31 for the period ended June 20, 2013.

•Approval of claims vouchers (check nos. 103515 - 103515) in the amount of \$150.00 for the period ended June 21, 2013.

•Approval of payroll vouchers (check nos. 51502 – 51531) in the amount of \$198,637.85 for the period ended June 15, 2013.

•Approval of payroll electronic fund transfers (check nos. 77335 – 77522) in the amount of \$394,119.44 for the period ended June 15, 2013.

•Approval of payroll wire transfer (Medicare and Federal Withholding Tax) in the amount of \$79,209.28 for the period ended June 15, 2013.

•Pre-approval or final approval of City Council and City Manager travel related expenses for the period ended June 19, 2013.

Agenda Items reviewed at the June 11, 2013 Council Study Session and recommended for placement on this Consent Agenda:

Agenda Bill #3520; A Motion authorizing the City Manager to execute a Construction Contract and authorizing expenditures for the South 168th Street Sidewalk Project

Agenda Bill #3516; A Motion establishing the 2013 Final Docket of Comprehensive Plan Amendments

MOVED BY FORSCHLER, SECONDED BY LADENBURG TO ACCEPT THE CONSENT AGENDA AS PRESENTED.

MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING (PH):

•Adopting the Ten-Year Transportation Improvement Program (TIP)

Mayor A. Anderson opened the PH at 6:41 p.m.

City Engineer Sanderson reviewed Agenda Bill #3512 summary below and the TIP list.

She also stated that the Federal Way Transit Center extension project has been added to the 2014-2023 TIP since being presented at the May 28 Council Study Session (CSS) and June 4 Planning Commission (PC) meeting. Currently Sound Transit is working on an alignment study to extend the light rail station south from the Angle Lake Light Rail Station to the Federal Way Transit Center.

There were no public comments.

Mayor A. Anderson closed the PH at 6:44 p.m.

ACTION ITEM (related to a PH):

Agenda Bill #3512; A Resolution adopting the Ten-Year Transportation Improvement Program (TIP) for 2014-2023

Summary: The City is required by State law to review its TIP annually. This review is to include a PH and formal adoption of the program by the City Council. Revised Code of Washington (RCW) 35.77.010 requires the City to adopt a minimum Six Year TIP, prior to July 1 each year. The Growth Management Act (GMA), RCW 36.70A.070(6), requires the City to adopt a CP transportation element, including a ten-year forecast of system and capacity needs. At this time, the funding distribution and scheduling of projects beyond the first two years is tentative.

Adoption of the TIP does not obligate the City to expend any money. There are a number of sources for financing TIP projects, including local tax and mitigation fees, state gas tax, and state and federal grants. Staff will make the appropriate applications for State and Federal grant funding for the projects included in the TIP.

MOVED BY LADENBURG, SECONDED BY BUSH TO PASS AGENDA BILL #3512.*

Council discussion ensued as to the reasons they were going to vote yes.

*MOTION CARRIED UNANIMOUSLY.

PUBLIC COMMENTS (related to Action Items and Unfinished Business): There were no public comments.

UNFINISHED BUSINESS: There was no Unfinished Business.

NEW BUSINESS: There was no New Business.

CITY MANAGER'S COMMENTS: City Manager Cutts commented on the following: (1) Minimum Employment Standard for Hospitality and Transportation Industry Employers – The petition was submitted to King County (KC) Elections for verification of signatures on June 10. On June 20 the elections department determined the signatures were sufficient. The issue will come before the Council at the on July 9 CSS and July 23 RCM. At the July 23 RCM Council will decide to either adopt the ordinance as proposed or send it to the voters on the November 5 ballot. Public comments will be allowed at both meetings; (2) Angle Lake Park project – staff is confident the project will allow for the International Festival to go on as scheduled with the water spray area open; (3) reviewed the agenda for the 4th of July event; (4) July 4 - City Hall closed; (5) July 12 - 6:30, Music in the Park; and (6) July 4-14, he will be out of the office. ACM Gwen Voelpel will be Acting City Manager.

COUNCIL COMMENTS: CM Ladenburg commented on the following: (1) he will be absent from the July 9 CSS; (2) wished everyone a safe July 4; and (3) July 25 - 1-3 p.m., Young Authors Day SeaTac Hilton Convention Center.

CM Forschler commented on Agenda Bill #3516 stating his concerns that the residents that participated in the Riverton Heights Community Meetings were clear they did not want multifamily. They were willing to accept single family, but they wanted a park first. He questioned the motivation for rezoning.

CM T. Anderson commented on noise from the Tyee Celebration and congratulated police on their noise control efforts.

CM Fernald commented on the following: (1) Agenda Bill #3516, (2) Traffic Officer Kevin Shoblom has set up a new email for citizens to report traffic issues after hours trafficunit@ci.seatac.wa.us; and (3) July 29, 2-4 p.m., CM Fernald will staff the City's International Festival booth.

CM Bush stated that the International Festival was started by the Rotary Club. He invited everyone to attend the festival.

ADJOURNED:

MOVED BY A. ANDERSON, SECONDED BY T. ANDERSON TO ADJOURN THE REGULAR MEETING OF THE SEATAC CITY COUNCIL AT 7:02 P.M.


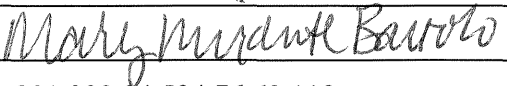


MOTION CARRIED UNANIMOUSLY.

SeaTac City Council
REQUEST FOR COUNCIL ACTION

Department Prepared by: Parks & Recreation

Agenda Bill: #3543

TITLE: A Motion authorizing the final acceptance of the Angle Lake Park Phase II Construction.

| | |
|---|---|
| <i>September 12, 2013</i> | |
| ___Ordinance ___Resolution <u>X</u> Motion ___Info. Only ___Other | |
| Date Council Action Requested: <u>RCM 10/08/2013</u> | |
| Ord/Res Exhibits: _____ | |
| Review Dates: <u>CSS 09/24/2013</u> | |
| Prepared By: <u>Kit Ledbetter, Parks & Recreation Director</u> | |
| Director: <u></u> | City Attorney: <u></u> |
| Finance: <u></u> | BARS #: <u>301.000.04.594.76.63.119</u> |
| City Manager: <u></u> | Applicable Fund Name: <u>Municipal Capital Improvement</u> |

3/11/13
[Signature]

SUMMARY: This Motion authorizes the final acceptance of the Angle Lake Park Phase II construction by Henderson Partners LLC.

DISCUSSION / ANALYSIS / ISSUES: The construction contract for this project was awarded to Henderson Partners LLC on February 12, 2013. The City Council approved the budget not to exceed \$1,400,624 for Henderson Partners LLC. The total value of the construction including all change orders and tax was \$1,384,960.68 which is \$15,663.32 under the approved budget. The Phase II park improvements included two new rentable picnic shelters, a water spray area, a re-graded area south of the performing stage, removal of the old roadway, installation of a new pathway system, and installation of new irrigation throughout the park.

This Motion authorizes the final acceptance of the Angle Lake Park Phase II construction, and establishes the required 45 day lien period.

RECOMMENDATION(S): It is recommended that the City Council formally accept the project as complete.

FISCAL IMPACT: The work was completed within the established budget that the City Council approved. Final acceptance will have no fiscal impact beyond payment of retainage as budgeted.

ALTERNATIVE(S): Do not accept the work as complete at this time.


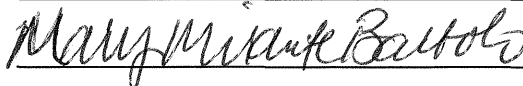


ATTACHMENT(S): None.

SeaTac City Council
REQUEST FOR COUNCIL ACTION

Department Prepared by: Community & Economic Development

Agenda Bill #:3540

TITLE: A Motion Authorizing the City Manager to Execute an Agreement with Sound Transit to Lease the Upper Floor of the Parking Garage at the SeaTac Center.

| | |
|--|--|
| <i>September 16, 2013</i> | |
| <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Info. Only <input type="checkbox"/> Other | |
| Date Council Action Requested: <u>RCM 10-08-13</u> | |
| Ord/Res Exhibits: _____ | |
| Review Dates: <u>CSS 09-24-13</u> | |
| Prepared By: <u>Jeff Robinson/Economic Development Manager</u> | |
| Director:  | City Attorney:  |
| Finance:  | BARS #: <u>108.362.50.00.02</u> |
| City Manager:  | Applicable Fund Name: <u>Building Management Fund</u> |

WJ
WJ

SUMMARY: This Motion authorizes the City Manager to execute a one-year lease agreement with two one-year options with Sound Transit to lease the upper floor of the parking structure at the SeaTac Center.

DISCUSSION / ANALYSIS / ISSUES: Sound Transit has approached the City with a request to lease a portion of the parking stalls in the SeaTac Center parking facility to accommodate the overflow needs experienced daily at the surface parking lots at the Tukwila International Boulevard light rail station (T.I.B.). The 600 stalls at T.I.B. are consistently filled by 6:30 a.m. and have a utilization rate of 99%. This proposed lease would allow for weekday and holiday use of the sixty-three stalls on the top deck of the SeaTac Center parking structure between the hours of 4:30a.m. and 6:30p.m. This is an area of the facility that is not necessary for use by SeaTac Center customers. The stalls would be leased for \$70.00 per stall per month. All costs associated with improving, maintaining and providing security will be the responsibility of Sound Transit. The City will be indemnified by Sound Transit and be named as an Additional Insured on its public liability insurance.

The leasing of these surplus stalls to a non-profit entity is authorized under SMC 15.15.130 of the Zoning Code. An analysis of the parking required by code for the SeaTac Center substantiated that there is surplus parking available.

RECOMMENDATION(S): It is recommended that the Motion be carried.

FISCAL IMPACT: There is no cost to the City for this proposed lease. The lease will generate additional revenue of \$53,920 in the first year of the agreement and a total of \$162,956 over a three-year period, if both one-year options are exercised. The yearly options include an annual lease escalator of 2%. Either party has the right to terminate the lease after a 30-day notice.

ALTERNATIVE(S): Do not carry this Motion.

ATTACHMENTS: 1. Proposed Lease Agreement

PARKING LEASE

THIS PARKING LEASE (the "Lease") is entered into this ____ day of October 2013 by and between the CITY OF SEATAC, a municipal corporation ("Landlord"), and the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, a regional transit authority organized under the laws of the State of Washington ("Tenant").

RECITALS

A. Landlord is the owner of that certain improved parcel of real property located in the City of SeaTac, King County, Washington commonly known as SeaTac Center located at 15247 International Boulevard and legally described as follows:

ADAMS HOME TRS 3RD ADD E 66 FT OF S 104.90 FT OF LOT 3
TGW LOT 4 LESS N 150 FT OF E 60 FT & LESS POR LY WLY OF W
LN OF E 60 FT OF N 200 FT TGW ALL LOT 9 TGW LOT 10 LESS
LESS HWY PER SUP COURT #07-2-07470-8KNT

B. Landlord wishes to lease to Tenant and Tenant wishes to lease from Landlord certain designated parking stalls at the Property as described and under the terms and conditions set forth in this Lease.

AGREEMENT

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord sixty-three (63) parking stalls located on the top floor of the parking structure at the Property substantially in the locations depicted on the attached Exhibit A (the "Premises"). Landlord also grants to Tenant and its agents, employees, consultants, and invitees a non-exclusive license for vehicular and pedestrian ingress, egress, and access over, upon, across, and through the Property for the benefit of the Premises. This license shall terminate automatically at the expiration or earlier termination of the Lease.

2. Term. The term of this Lease shall commence on the day that Tenant's signage installation is complete and shall terminate on December 31, 2014. Landlord and Tenant will, at the request of either, execute a letter specifying the commencement date of the Lease. Tenant shall have the option of renewing this Lease for two additional one-year terms upon providing Landlord with sixty (60) days' written notice prior to the expiration of the then current term. Landlord is under no obligation to notify Tenant of this deadline. Failure to give the required notice will make this renewal option null and void. During the renewal term, all terms and conditions of this Lease shall remain in effect, including the annual rate adjustment provision. In addition, either party may terminate this Lease with ninety (90) days written notice.

3. Rent.

a. Tenant shall pay monthly rent in the amount of \$4,410.00 (\$70.00 per stall per month). Tenant shall pay the Rent in advance, on or before the first day of each month. If Tenant is in possession of the Premises for a portion of a month, the monthly rent shall be prorated for the number of days of Tenant's possession during that month. The parties agree that said payment is complete and full and that no further amount shall be due for any wear, maintenance or damage accruing to the Premises.

b. The rent stated in subparagraph a. above shall be adjusted in increments of two percent (2%) as set forth below.

| | |
|-----------------------------|--------------------|
| Through 12/31/2014 | \$4,410.00 monthly |
| 1/1/2015 through 12/31/2015 | \$4,498.20 monthly |
| 1/1/2016 through 12/31/2016 | \$4,588.16 monthly |

4. Use of Premises. The Premises shall be used for parking for light rail transit riders and for no other purpose without Landlord's prior written consent, which consent shall not be unreasonably withheld. Sound Transit shall not create or maintain on the Premises any nuisance or in any way violate generally applicable laws, ordinances and public regulations now or hereafter in effect.

5. Access and Use. Tenant shall have the right to use the Premises from Monday through Friday between 4:30 AM and 6:30 PM and on holidays. Landlord shall have and retain the right to use the Premises during other hours. Landlord reserves the ability to make other uses of the Premises which do not interfere with Tenant's use. Tenant shall have the right to enter upon the Premises at any time for purposes related to this Lease.

6. Security. Tenant is responsible for providing security services to the leased Premises during Tenant's regular hours of operation.

7. Signs. All signs or symbols placed by Tenant on the Premises shall be subject to Landlord's prior written approval. At the termination of this Lease, Tenant will remove all signs Tenant placed upon the Premises and will repair any damage caused by such removal. Tenant shall supply two signs that say "No Transit Parking Except on the Top Floor of Garage" to Landlord for Landlord's installation. All signs must comply with sign ordinances and be placed in accordance with required permits.

8. Alterations. After prior written consent of Landlord, Tenant may make alterations, additions and improvements to the Premises, at Tenant's sole cost and expense. At the time of Landlord's consent, Landlord shall provide Landlord's restoration requirements to Tenant and shall designate which improvements Landlord will require Tenant to remove at the end of the term. In the performance of such work, Tenant agrees to comply with all laws, ordinances, rules and regulations of any proper public authority, and to save Landlord harmless from damage, loss or expense. Upon termination of this Lease, Tenant, at Tenant's sole cost and expense, shall remove the designated improvements and restore the Premises to the condition agreed upon at the time of approval.

9. Liens and Improvements. Tenant shall keep the Premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by Tenant and shall indemnify and hold Landlord harmless against the same.

10. Repairs and Maintenance. The Premises have been inspected and are accepted by Tenant in their present condition. Tenant shall, at its expense and at all times, keep the Premises neat, clean and in a sanitary condition, and keep and use the Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. Landlord shall, at Landlord's expense, maintain the Premises in good repair, order, and serviceable condition.

11. Governmental Charges. Landlord shall indemnify and save Tenant harmless from any taxes, assessments or governmental charges of any kind which may be levied against the Premises.

12. Accidents and Liability, Insurance. Landlord or its agent shall not be liable for any injury or damage to persons or property sustained by Tenant or others, on or about the Premises. Tenant agrees to defend and hold Landlord and its agents, officers, and employees harmless from any and all claims, actions and/or judgments for damages to property or injury to persons suffered or alleged to be suffered arising out of the Tenant's use of the Premises by any person, firm or corporation (including any vehicular and pedestrian ingress, egress, and access over, upon, across, and through the Property for the benefit of the Premises, and any use outside of the designated access times set forth in Section 5 of this Lease), unless caused by Landlord's sole negligence. Tenant agrees to maintain public liability insurance on the Premises with broad form property damage and contractual liability endorsements and in the minimum combined single limit of \$5,000,000 for bodily injuries and death, and shall name Landlord, its agents, officers, and employees, as Primary-noncontributory additional insureds. Prior to occupancy, Tenant shall furnish Landlord a certificate indicating that the insurance policy is in full force and effect and Landlord has been named as an additional insured. Tenant shall provide Landlord with ten (10) business days prior written notice of any policy cancellation.

13. Damage or Destruction. In the event the Premises are rendered untenable in whole or in part by fire, the elements, or other casualty, Landlord may elect, at its option, not to restore or rebuild the Premises and shall so notify Tenant, in which event Tenant shall vacate the Premises and this Lease shall be terminated; or, in the alternative, Landlord shall notify Tenant, within thirty (30) days after such casualty, that Landlord will undertake to rebuild or restore the Premises, and that such work can be completed within one hundred eighty (180) days from the date of such notice of intent. If Landlord is unable to restore or rebuild the Premises within the said one hundred eighty (180) days, then the Lease may be terminated at Tenant's option by written ten (10) day notice to Landlord. During the period of untenability, rent shall abate in the same ratio as the portion of the Premises rendered untenable bears to the whole of the Premises.

14. Default and Re-entry. If Tenant shall fail to keep and perform any of the covenants and agreements herein contained, other than the payment of rent, and such failure continues for thirty (30) days after written notice from Landlord, unless appropriate action has been taken by Tenant in good faith to cure such failure, Landlord may terminate the Lease and re-enter the Premises.

15. Cost and Attorneys' Fees. If, by reason of any default or breach on the part of either party in the performance of any of the provisions of this Lease, a legal action is instituted, the losing party agrees to pay all reasonable costs and attorney's fees in connection therewith, including costs and fees to collect any judgment. It is agreed that the venue of any legal action brought under the terms of this Lease may be in the county in which Premises are situated. Interest on unpaid sums shall accrue at the rate of 12 percent per annum from due date.

16. No Waiver of Covenants. No conduct of a party shall constitute accord and satisfaction unless contained in a writing of such effect and signed by the parties. Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future similar breach. This Lease contains all the agreements between the parties; and there shall be no modification of the agreements contained herein except by written instrument.

17. Surrender of Premises. Tenant agrees, upon termination of this Lease, to peacefully quit and surrender the Premises without notice, leave the Premises neat and clean.

18. Holding Over. If Tenant, with the express consent of Landlord, shall hold over after the expiration of the term of this Lease, Tenant shall remain bound by all the covenants and agreement herein, except that the tenancy shall be from month to month.

19. Building Subrogation Waiver. Each of Landlord and Tenant release and relieve the other and waive their entire right of recovery against the other for loss or damage arising out of or incident to the perils described in standard fire insurance policies and all perils described in the "Extended Coverage" insurance endorsement approved for use in Washington state, that occurs in, on, or about the Premises or Property, whether due to the negligence of either party, their agents, employees, or otherwise. This waiver does not apply to vehicles.

20. Successors and Assigns. This Lease and each of the terms, provisions, conditions, and covenants hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

21. Notices. All notices hereunder shall be in writing and shall be delivered personally, by certified or registered mail, by facsimile or by recognized overnight courier addressed as follows:

If to Tenant: Sound Transit
 Attention: Property Management Manager
 401 S. Jackson St.
 Seattle, WA 98104-2886

If to Landlord: City of SeaTac
 Community & Economic Development
 Attention: Jeff Robinson, Economic Development Manager
 4800 South 188th Street
 SeaTac, WA 98188-8605

22. Entire Agreement. This document contains the entire agreement between the parties and supersedes all other statements or understandings between the parties.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the date herein set forth.

LANDLORD:

TENANT:

CITY OF SEATAC

**CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY**

By: _____
 Todd Cutts
 City Manager

By: _____
 Nancy Bennett
 Property Management Manager

Date: _____

Date: _____

Approved as to Form

Approved as to Form

City Attorney

Sound Transit Legal Counsel

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that TODD CUTTS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the CITY MANAGER of the CITY OF SEATAC to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Dated:

Notary Public

[Printed Name]
My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

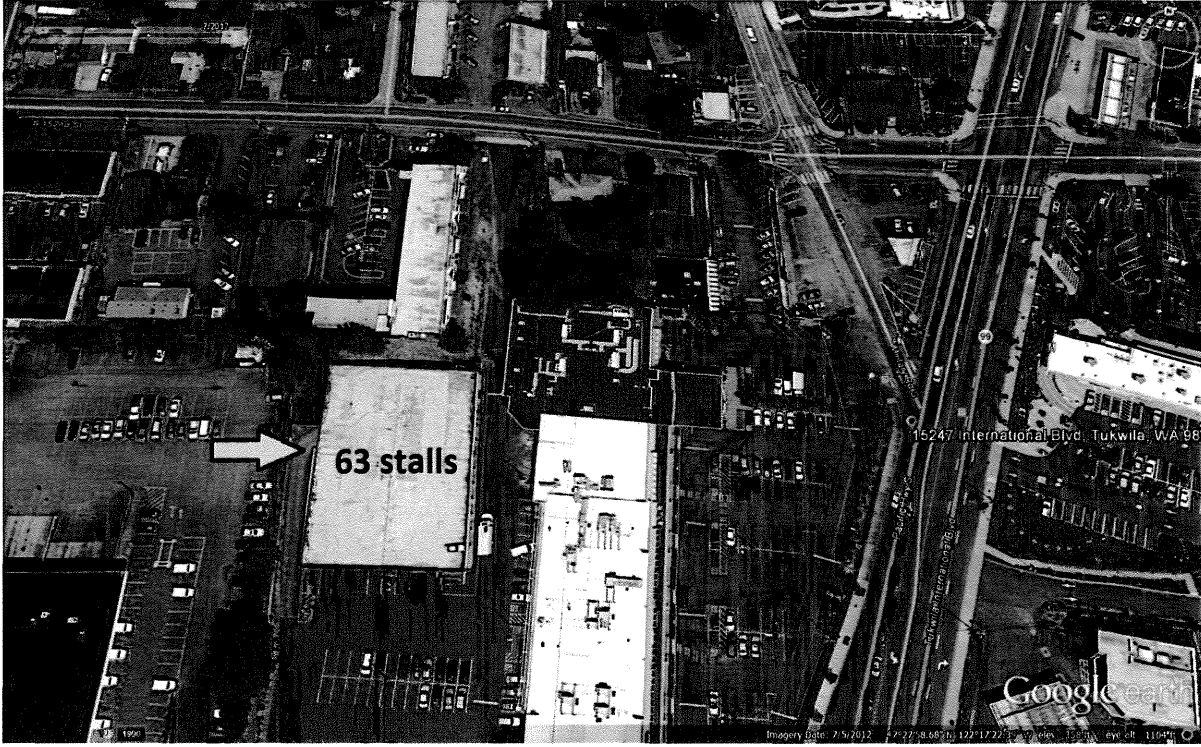
I certify that I know or have satisfactory evidence that NANCY BENNETT is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the PROPERTY MANAGEMENT MANAGER of the CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Dated:

Notary Public

[Printed Name]
My appointment expires _____

**EXHIBIT A
THE PREMISES**





CITY OF SEATAC



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE SEATAC CITY COUNCIL WILL HOLD A PUBLIC HEARING AT THEIR MEETING ON **TUESDAY, OCTOBER 8**, AT 6:30 PM IN THE SEATAC CITY HALL COUNCIL CHAMBERS, 4800 SOUTH 188TH STREET. THIS HEARING IS TO CONSIDER THE PUBLIC INTEREST TO BE SERVED OR ADVANTAGED BY THE FOLLOWING ACTIONS:

PROJECT: Entering into a nonexclusive franchise with Comcast of Washington for cable television service.

APPLICANT: Comcast of Washington IV, Inc.
4020 Auburn Way North
Auburn, WA 98002

CONTACT: Soraya Lowry, City of SeaTac, 206.973.4813, slowry@ci.seatac.wa.us

DESCRIPTION: This proposal would grant a nonexclusive franchise allowing Comcast to continue operating a cable television system in the City's rights-of-way, subject to the obligations set forth in the franchise.

ANY PERSONS WHO WOULD LIKE TO COMMENT MAY APPEAR AT THE HEARING AND BE HEARD IN SUPPORT OF OR IN OPPOSITION TO THE GRANTING OF THIS FRANCHISE. ADDITIONAL INFORMATION MAY BE OBTAINED AT THE CITY MANAGER'S OFFICE, SEATAC CITY HALL (PHONE 206-973-4820/TDD 973-4808, EMAIL SLOWRY@CI.SEATAC.WA.US).



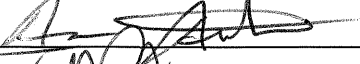

Copies of the proposed Franchise can also be viewed at the City's website:
<http://www.ci.seatac.wa.us/index.aspx?page=99>

DATE OF POSTING and PUBLISHED IN THE SEATTLE TIMES: **SEPTEMBER 24, 2013**

SeaTac City Council
REQUEST FOR COUNCIL ACTION
Department Prepared by: City Manager's Office

Agenda Bill #: 3473

TITLE: A Resolution granting Comcast a non-exclusive franchise to continue operation of a cable television system in the City, and authorizing the City Manager to execute the franchise and a fiber use agreement.

| | |
|--|---|
| <i>October 3, 2013</i> | |
| <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Info. Only <input type="checkbox"/> Other | |
| Date Council Action Requested: <u>RCM 10/22/13</u> | |
| Ord/Res Exhibits: <u>Exhibit A: Cable Television Franchise</u> <u>Exhibit B: Fiber Use Agreement</u> | |
| Review Dates: <u>RCM and Public Hearing: 10/08/13</u> | |
| Prepared By: <u>Soraya Lowry, Program Manager</u> | |
| Director: <u></u> | City Attorney: <u></u> |
| Finance: <u></u> | BARS #: <u>001.321.91.000</u> |
| City Manager: <u></u> | Applicable Fund Name: <u>General Fund</u> |

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SUMMARY: The proposed Resolution grants Comcast a non-exclusive franchise to provide citywide cable television services. Additionally, the resolution authorizes the City Manager to execute, in substantially the same form as attached, the franchise and a fiber use agreement that addresses the continued operation of network connections between city buildings and schools in SeaTac.

DISCUSSION / ANALYSIS / ISSUES:

Background

In 1996 the City of SeaTac granted a ten (10) year, non-exclusive franchise to Comcast's predecessor (TCI) to operate a cable television system in the City, which was subsequently transferred to Comcast. In 2004 the City granted Comcast a five (5) year extension to the franchise. At that same time, the City authorized Comcast to collect a pass-through local government access capital equipment fee of twenty-five cents (\$.25) per subscriber per month to fund the purchase of equipment needed to launch SeaTV, Channel 21.

Proposed Franchise

The proposed franchise allows Comcast to continue to provide non-exclusive cable television services within the City for a period of ten (10) years and would require Comcast to meet a variety of provisions summarized below. The first section highlights key provisions that are consistent with the prior franchise while the second section highlights provisions that are new or have been substantially revised.

Consistent with Prior Franchise

Section 3.1 Franchise Fees – Comcast must pay to the City, for the duration of the franchise, five percent (5%) of gross revenues. In 2012 Comcast paid the City approximately \$265,000 in franchise fees.

Section 4.2 Rate Regulation – All rates, fees and charges imposed by Comcast for any cable service shall be in accordance with applicable federal laws. The City does not have the authority to regulate rates. All price adjustments are noticed to customers and the City per Federal law and FCC regulations.

Section 4.3 Low Income Discount – Comcast agrees to offer a discount to individuals who are low income (according to applicable federal guidelines) and either permanently disabled or at least 65 years of age. The discount will consist of thirty percent (30%) off Basic Service or the Basic Service portion of digital service packages that are not discounted through another promotional or package rate.

Section 9.1(A) Access Channels – Comcast will continue to provide a government access channel, Channel 21, which is programmed by the City. Comcast will also continue to provide an education access channel (Channel 26) and a public access channel (Channel 77).

Section 10.10(A) Restoration of Property – There may be times when work done by Comcast will necessitate disturbing the City’s right-of-way or other public property. If Comcast impacts any public property during construction or maintenance of the cable system, Comcast will pay to restore such property to a condition equal to or better than the original condition.

Section 10.11(A) Movement of Cable System Facilities: Relocation at Request of City – The City has the right to require Comcast to relocate any part of the cable system within the right of way to accommodate a city capital project or to address a public health or safety issue.

Section 11.3 Technical Performance – The technical performance of the cable system shall meet or exceed all applicable federal technical standards. This is a statement of current practices.

Section 12.1(A) Service Availability – Cable service will be made available throughout the entire city. This is a statement of current practices.

New or Substantially Revised from Prior Franchise

Section 5.2 Insurance Requirements (Revised) – Comcast’s insurance requirements have been revised to increase coverage for personal injury and property damage, while the overall per accident limit remains unchanged.

Section 5.3 Bonds (New) – Comcast must provide a performance bond for \$250,000 to ensure the faithful performance of its obligations under the franchise, such as payment to the City of fees and taxes, and to ensure that repairs to the right-of-way are completed properly.

Section 6.1 Customer Service Standards (New) – Comcast must comply with the customer service requirements that have been established by the Federal Communications Commission. These standards are commonly adopted by local jurisdictions as an alternative to developing local standards. They address basic issues such as customer service telephone availability, installation of cable service, outages and service appointments. The City has the authority to enforce these standards and responds to resident concerns as needed.

Section 6.2 Subscriber Privacy (New) – Comcast will comply with the privacy rights of all subscribers, in accordance with federal, state and local laws.

Section 9.4 Access Capital Contribution (Revised) – The monthly subscriber capital equipment fee will be reduced from twenty-five cents (\$.25) to three cents (\$.03). The Government Access Channel is currently well equipped and future equipment purchases will be adequately covered by the fund balance that has accrued under the former franchise plus the lower capital equipment fee. The current fund balance is approximately \$39,000 and the proposed equipment fee will generate approximately \$1,860 annually.

Section 10.3 Movement of Facilities During Emergencies (New) – During an emergency necessitating the movement of Comcast facilities, the City will notify Comcast and allow them the opportunity to address the situation without disrupting cable service. If there is no immediate response, the City may move Comcast’s facilities and bill Comcast for the cost.

Section 10.4 (New) – Comcast will participate in the call before you dig program required under state law.

Section 10.9 Poles & Undergrounding (Revised) – If all of the wires and lines of electric and telephone service providers in any area within the City are undergrounded, Comcast will place its cable system and service cables underground at its expense. In any part of the City where utility wires and lines are both aerial and underground, Comcast has discretion as to whether to maintain or construct its cables aerially or underground in that area of the City. Where utilities have aerial wiring, Comcast may install aerial cable except when a resident agrees to bear the additional cost for undergrounding. This section is consistent with the intent of the 1996 franchise. However, this section provides Comcast more leeway than the City’s code, developed in 1997, after the original franchise. This leeway is appropriate because strict interpretation of the code would require Comcast to underground its system when it undertakes a major improvement, while phone and electric utilities would still be allowed to remain above ground.

Section 10.12 Movement of Cable System Facilities for Others (New) – If any change to the cable system is required to accommodate a capital project for an entity other than the City, Comcast will make the necessary changes as long as the other party pays for Comcast’s time and material costs.

Proposed Fiber Use Agreement

Comcast has constructed and maintained an institutional network (I-Net) that provides internet connections to and between a number of city buildings and public schools in the City, as agreed to in the original 1996 franchise. Comcast owns the fiber lines used for this purpose. The new fiber use agreement addresses use of the fiber lines owned by Comcast, so that the City can continue to utilize them.

RECOMMENDATION(S): It is recommended that the City Council pass the proposed Resolution.

FISCAL IMPACT: Passage of the proposed Resolution would grant Comcast a new 10-year franchise to provide cable television service and authorize a new fiber use agreement for the City’s I-Net connections.

ALTERNATIVE(S): Do not pass the Resolution.

ATTACHMENTS: None.

RESOLUTION NO. _____

A RESOLUTION of the City Council of the City of SeaTac, Washington, granting Comcast of Washington IV, Inc. a non-exclusive franchise to continue operation of a cable television system in the City, and authorizing the City Manager to execute the franchise and a fiber use agreement.

WHEREAS, Comcast operates a cable television system in the City of SeaTac; and

WHEREAS, the City Council has determined that is appropriate to grant a new franchise to Comcast allowing for the continued operation of a cable television system in the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON HEREBY RESOLVES as follows:

1. The City hereby grants a non-exclusive franchise to Comcast of Washington IV, Inc. for the operation of a cable system in the City. The City Manager is authorized to execute, on behalf of the City, a franchise agreement with Comcast of Washington IV, Inc, generally in the form attached to this Resolution as Exhibit A; and
2. The City Manager is authorized to execute, on behalf of the City, a fiber use agreement with Comcast of Washington IV, Inc, generally in the form attached to this Resolution as Exhibit B.

PASSED this _____ day of _____, 2013 and signed in authentication thereof on this _____ day of _____, 2013.

CITY OF SEATAC

Tony Anderson, Mayor

ATTEST:

Kristina Gregg, City Clerk

Approved as to Form:

Mary Mirante Bartolo
Mary E. Mirante Bartolo, City Attorney

[Sound Transit Development Agreement Amendment #2]

THE CITY OF SEATAC, WASHINGTON
CABLE TELEVISION FRANCHISE

EXHIBIT "A"

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CABLE TELEVISION FRANCHISE

This Cable Television Franchise ("Franchise") is entered into this ____ day of _____, 20__, by and between the City of SeaTac, Washington, a municipal corporation, (hereinafter "City") and Comcast of Washington IV, Inc. (hereinafter "Grantee"). The City and Grantee are sometimes referred to hereinafter collectively as the "parties."

WHEREAS, the City has reviewed Grantee's performance under the prior franchise and the quality of service during the prior franchise term, has identified the future cable-related needs and interests of the City and its citizens, and has determined that Grantee's plans for operating and maintaining its Cable System are adequate; and

WHEREAS, the public has had adequate notice and opportunity to comment on this Franchise during a public proceeding; and

WHEREAS, the City has a legitimate and necessary regulatory role in ensuring the availability of state-of-the-art cable communications service, the high technical capability and reliability of a cable system in the Franchise Area, the availability of local programming and quality customer service; and

WHEREAS, diversity in Cable Service is an important policy goal and the Grantee's Cable System should offer a broad range of programming services; and

WHEREAS, flexibility to respond to changes in technology and Subscriber interests within the Cable Service market should be an essential characteristic of this Franchise; and

WHEREAS, the City is authorized by applicable law to grant one or more nonexclusive franchises to construct, operate and maintain a Cable System within the boundaries of the City.

NOW, THEREFORE, in consideration of the mutual promises made herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Grantee do hereby agree as follows:

SECTION 1. DEFINITIONS

For the purposes of this Franchise and the Exhibits attached hereto, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

1.1 "Affiliate" when used in connection with Grantee means any Person who owns or controls, is owned or controlled by, or is under common ownership with, Grantee.

1.2 "Basic Service" means the lowest tier of Cable Service that includes, at a minimum, the retransmission of local television broadcast signals and access programming.

1.3 "Cable Operator" means any Person, including Grantee, who provides Cable Service over the Cable System and directly or through one or more affiliates owns a significant interest in such Cable System or who otherwise control(s) or is(are) responsible for, through any arrangement, the management and operation of such a Cable System.

1.4 "Cable Service" means the one-way transmission to Subscribers of video programming, or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.5 "Cable System" shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided within the Franchise Area.

1.6 "City" means the City of SeaTac, Washington, a municipal corporation.

1.7 "FCC" means the Federal Communications Commission or its lawful successor.

18 "Franchise" means this document, a contractual agreement, and any amendments and modifications thereto executed between the City and Grantee, containing the specific provisions of the authorization granted to operate a Cable System in the City.

1.9 "Franchise Area" means the area within the jurisdictional boundaries of the City, including any areas served by Franchisee and annexed by the City during the term of this Franchise.

1.10 "Grantee" shall mean Comcast of Washington IV, Inc.

1.11 "Gross Revenues" means any and all revenue derived by the Grantee or its Affiliates from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles.

(A) Gross revenues shall include but shall not be limited to the following:

- 1) fees charged for Basic Services,
- 2) fees charged to Subscribers for any service tier other than Basic Service;
- 3) fees charged for premium Channels(s), e.g. HBO, Cinemax, or Showtime;
- 4) fees charged to Subscribers for any optional, per-Channel, or per-program services and other video fees;
- 5) FCC regulatory fees;
- 6) charges for installation, additional outlets, relocation, disconnection, reconnection, and change-in-service fees for Cable Service;
- 7) fees for service calls;
- 8) revenues from rentals or sales of Customer equipment, including converters (e.g. set top boxes, high definition converters, and digital video recorders) or other Cable System equipment and remote control devices;
- 9) advertising sales revenue (including local, regional and a pro rata share of national advertising carried on the Cable System in the Franchise Area) net of commissions due to advertising agencies that arrange for the advertising buy, as calculated under GAAP;

- 10) revenues from the sale of program guides;
- 11) revenue from leased Access channels;
- 12) revenues from home shopping channels;
- 13) late payment fees and administrative fees; and
- 14) Franchise Fees.

(B) Gross Revenue shall not include:

- 1) refundable deposits;
- 2) Bad Debt; provided, however, that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected;
- 3) any taxes, fees or assessments on services furnished by the Grantee which are imposed directly on any Subscriber or user by any governmental authority and which are collected by the Grantee on behalf of the said governmental unit; or
- 4) the PEG Capital Contributions as required by this Franchise.

1.12 "Headend" means Grantee's primary facility for signal reception and dissemination on the Cable System, including cables, antennas, wires, satellite dishes, monitors, switchers, modulators, processors and other related equipment.

1.13 "PEG" means Public, Educational and Government access.

1.14 "Person" means any individual, partnership, association, joint stock company, trust, corporation, or governmental entity, but shall not mean the City.

1.15 "Premium Service" means programming (movie channels such as HBO) for which a periodic subscription fee is charged.

1.16 "Right-of-Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public Right-of-Way, including, but not limited to, utility easements, dedicated utility strips, or Right-of-Way dedicated for compatible uses now or hereafter held by the City in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, upgrading and maintaining the Cable System. Right-of-Way shall also mean any easement now or hereafter held by the City within the Franchise Area for the purpose of public travel or for utility or public service use dedicated for compatible uses.

1.17 "School" means any State accredited public educational institution K-12.

1.18 "State" means the State of Washington.

1.19 "Subscriber" means any Person who lawfully receives Cable Service provided by Grantee by means of the Cable System and whose premises are physically wired and lawfully activated to receive Cable Service from Grantee's Cable System.

SECTION 2. GRANT OF FRANCHISE

2.1 Grant

(A) The City hereby grants to Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Right-of-Ways within the Franchise Area, and for that purpose to install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Right-of-Way such wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment and use existing poles as may be necessary or appurtenant for the deployment of Cable Services over the Cable System. This Franchise shall constitute both a right and an obligation to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

(B) Grantee, through this Franchise, is granted the right to operate its Cable System using the Right-of-Ways and utility easements dedicated to compatible uses within the Franchise Area. Subject to federal and State preemption, the material terms and conditions contained in this Franchise may not be unilaterally altered by the City through subsequent amendments to any ordinance, regulation, resolution or other enactment of the City, except within the lawful exercise of the City's police power. In the event of a conflict between the SeaTac Municipal Code and this Franchise, this Franchise shall control. Grantee has the right to challenge any City ordinance or regulation that conflicts with its rights under this Franchise. Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to protect the health, safety and welfare of the public, and Grantee agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such power.

(C) Grantee guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliate of the Grantee offering Cable Service in the Franchise Area, or directly involved in the management or operation of the Cable System in the Franchise Area, will also comply with the terms and conditions of this Franchise.

(D) No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

(1) Any other permit or authorization lawfully required for the purpose of conducting business within the City pursuant to the ordinances and laws of the City; or

(2) Any permit, agreement or authorization lawfully required by the City for rights-of-way users in connection with operations on or in rights-of-way or public property including, by way of example and not limitation, street cut permits; or

(3) Any permits or agreements for occupying any other property of the City to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

(E) This Franchise is intended to convey limited rights and interests only as to those rights-of-ways in which the City has an actual interest. It is not a warranty of title or interest in any

rights-of-way; it does not provide the Grantee with any interest in any particular location within the rights-of-way; and it does not confer rights other than as expressly provided in the grant hereof.

(F) This Franchise expressly authorizes Grantee to provide Cable Services over its Cable System. This Franchise is not a bar to imposition of any lawful conditions on Grantee with respect to non-Cable services. This Franchise does not relieve Grantee of any obligation it may have to obtain from the City an authorization to provide non-Cable services or relieve Grantee of its obligation to comply with any such authorization(s) that may be lawfully required. However, this Franchise shall not be read as a concession by the Grantee that it needs authorization to provide non-Cable Services.

2.2 Duration

The term of this Franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be ten (10) years from the effective date of this Franchise, unless extended or terminated as hereinafter provided.

2.3 Effective Date

The effective date of this Franchise shall be twenty (20) days after publication following the adoption of this Franchise by the City's City Council, unless Grantee fails to file with the City an unconditional written acceptance of this Franchise and post the security required hereunder within sixty (60) days of the effective date of this Franchise, in which event this Franchise shall be voidable.

2.4 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, permits or licenses granted by the City to any Person to use any property for any purpose whatsoever, including the right of the City to use the same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder. The City may at any time grant authorization to use the Right-of-Ways for any purpose not incompatible with Grantee's authority under this Franchise and for such additional franchises for cable systems as the City deems appropriate.

2.5 Effect of Acceptance

By accepting the Franchise, the Grantee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) agrees that it will not oppose the City's intervening, to the extent that the City is legally entitled to do so, in any legal or regulatory proceeding affecting the Cable System; (3) accepts and agrees to comply with each and every provision of this Franchise; and (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

2.6 Competitive Equity

(A) The Grantee acknowledges and agrees that the City reserves the right to grant one or more additional franchises to provide Cable Service within the Franchise Area; provided, the City agrees that it shall amend this Franchise to include any material terms or conditions that it makes available to the new entrant within ninety (90) days of the Grantee's request, so as to ensure that the regulatory and financial burdens on each entity are materially equivalent. "Material terms and conditions" include, but are not limited to: franchise fees; insurance; system build-out requirements; security instruments; access channel and support; customer service standards; required reports and

related record keeping; and notice and opportunity to cure breaches. If any such additional or competitive franchise is granted by the City which, in the reasonable opinion of the Grantee, contains more favorable or less burdensome terms or conditions than this Franchise, the City agrees that it shall amend this Franchise to include any more favorable or less burdensome terms or conditions in a manner mutually agreed upon by City and Grantee.

(B) In the event an application for a new cable television franchise is filed with the City proposing to serve the Franchise Area, in whole or in part, the City shall serve or require to be served a copy of such application upon the Grantee by registered or certified mail or via nationally recognized overnight courier service.

(C) In the event that a wireline multichannel video programming distributor provides video service to the residents of the City under the authority granted by federal or State legislation or other regulatory entity, the Grantee shall have a right to request Franchise amendments that relieve the Grantee of regulatory burdens that create a competitive disadvantage to the Grantee. In requesting amendments, the Grantee shall file a petition seeking to amend the Franchise. Such petition shall: (1) indicate the presence of such wireline competitor; (2) identify the basis for Grantee's belief that certain provisions of the Franchise place Grantee at a competitive disadvantage; and (3) identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. The City shall not unreasonably withhold consent to the Grantee's petition.

SECTION 3. FRANCHISE FEES AND FINANCIAL CONTROLS

3.1 Franchise Fees

As compensation for the use of the City's Right-of-Ways, Grantee shall pay as a franchise fee to the City, throughout the duration of this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues, pursuant to 47 U.S.C. § 542. Accrual of such franchise fees shall commence as of the effective date of this Franchise.

3.2 Payments

Grantee's franchise fee payments to the City shall be computed quarterly for the preceding quarter. Each payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter, after which time interest will accrue. The quarters shall end respectively on the last day of March, June, September and December. Subsequent to the payment, Grantee shall submit a written report to the City, verified by an authorized representative of Grantee, containing an accurate statement in summarized form that includes a breakdown by category of Grantee's Gross Revenues and the computation of the payment amount.

3.3 Acceptance of Payment

No acceptance of any payment shall be construed as an accord by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for further or additional sums payable or for the performance of any other obligation of Grantee.

3.4 Audits

Upon forty-five (45) days prior written notice, the City shall have the right to conduct an annual independent audit of Grantee's records necessarily related to the enforcement of this Franchise and

to recompute any amounts determined to be payable under this Franchise. If Grantee cooperates in making all relevant records available to the City, the City will attempt to complete each audit within six (6) months, and the audit period shall be no greater than the previous three (3) years, unless the City has information relating to previous years beyond the three (3) years which raises doubt as to the accuracy of payments made under this or previous franchises in which case an additional three (3) years may be audited. Any undisputed amounts due to the City as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the City, which notice shall include a copy of the audit findings. If the audit shows that franchise fees have been underpaid by five percent (5%) or more in any calendar year, Grantee shall pay the cost of the audit in an amount not to exceed five thousand dollars (\$5,000) per year being audited for a maximum of 3 years. If Grantee disputes all or part of the audit findings, then the parties shall meet in an attempt to resolve the matter. If the parties are unable to resolve the matter, then either of the parties may refer that matter to non-binding arbitration. Each party shall bear one-half of the costs and expenses of the arbitration proceedings. The decision of the arbitrator(s) shall be subject to judicial review at the request of either party.

3.5 Late Payments

In the event any payment due the City is not timely made, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate as provided under State law, from the payment due date until the City receives the payment.

3.6 Underpayments

If a franchise fee underpayment is discovered as the result of an audit, Grantee shall pay, in addition to the amount due, interest at the maximum allowed rate as provided under State law, calculated from the date the underpayment was originally due until the date the City receives the payment.

3.7 Maximum Franchise Fees

The parties acknowledge that, at present, applicable federal law limits the City to collecting a franchise fee of five percent (5%) of Gross Revenues in a 12-month period. In the event that at any time throughout the term of this Franchise, the City is authorized to collect an amount in excess of five percent (5%) of Grantee's Gross Revenues and the City elects to do so, then this Franchise shall be amended by the parties consistent with such change provided however that all other Cable Operators within the Franchise Area are treated similarly. Conversely, in the event that at any time throughout the term of this Franchise, the City may only collect an amount which is less than five percent (5%) of Grantee's Gross Revenues for franchise fees due to a change in federal law, then this Franchise shall be amended by the parties consistent with such change to provide for such lesser percentage.

3.8 Additional Commitments Not Franchise Fees

No term or condition in this Franchise shall in any way modify or affect Grantee's obligation to pay franchise fees. Although the total sum of franchise fee payments and additional commitments set forth elsewhere in this Franchise may total more than five percent (5%) of Grantee's Gross Revenues in any 12-month period, Grantee agrees that the additional commitments herein are not franchise fees, nor are they to be offset or credited against any franchise fee payments due to the City, nor do they represent an increase in franchise fees to be passed through to Subscribers.

3.9 Tax Liability

The franchise fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use, utility, occupation and other taxes.

3.11 Cable and Non-Cable Services

In the event that Grantee offers Cable Services and non-Cable Services to its subscribers in the City, and those services are included in one monthly bill to each subscriber, then Grantee shall clearly itemize each of the respective services on the bill. The rates for Cable Service shall accurately reflect the rate card rates less discounts, if any exist.

3.12 Discounts on Bundled Services

To the extent discounts reduce revenues includable for purposes of calculating franchise fees, the Franchisee may not unfairly or unlawfully allocate discounts for bundled services for the purpose of evading payment of franchise fees to the City.

SECTION 4. ADMINISTRATION AND REGULATION

4.1 Authority

(A) The City shall be vested with the power and right to administer and enforce the requirements of this Franchise and the regulations and requirements of applicable law or to delegate that power and right, or any part thereof, to the extent permitted under law, to any agent in the sole discretion of the City.

(B) Nothing in this Franchise shall expand or limit the City's right of eminent domain under State law.

4.2 Rate Regulation

All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the effective date shall be in accordance with applicable law.

4.3 Low Income Discount

The Grantee voluntarily agrees to offer a discount to those individuals who are low income (according to applicable federal guidelines) and either permanently disabled or 65 years of age or older and who are the legal owners or tenants of the Dwelling Unit. Such discounts will consist of thirty percent (30%) off of Basic Service or the Basic Service portion of digital service packages when not discounted by inclusion in other promotional or programming package rates at which time the promotional or programming package rate will apply.

4.4 Leased Access Channel Rates

Grantee shall offer leased access channel capacity on such terms and conditions and rates as may be negotiated with each lessee, subject to applicable law. Upon request, Grantee shall provide a complete schedule of current rates and charges for all leased access channels, or portions of such channels, provided by Grantee.

SECTION 5. INDEMNIFICATION AND INSURANCE REQUIREMENTS

5.1 Indemnification

(A) General Indemnification. Grantee shall indemnify, defend and hold harmless the City, and its officers, officials, boards, commissions, agents and employees (while acting in an official capacity) from any action, claim, damage, loss, liability, cost or expense, including court and appeal costs and attorneys' fees and expenses, arising from the death of, injury, casualty or accident to, as applicable, a Person, equipment or property arising out of, or by reason of, any construction, excavation, operation, maintenance, repair, reconstruction, upgrade, rebuild, upkeep or removal of the Cable System, by or for Grantee, its agents or employees, or by reason of any neglect or omission of Grantee, its agents or employees, except for injuries and damages caused by the sole negligence of the City. Grantee shall consult and cooperate with the City while conducting its defense of the City. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purpose of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver.

(B) Procedures and Defense. The City shall give the Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. If a claim or action arises, the City or any other indemnified party shall then tender the defense of the claim to Grantee within six (6) business days of receipt of such notice, which defense shall be at Grantee's expense. The City may participate in the defense of a claim and, in any event, Grantee may not agree to any settlement of claims financially affecting the City without the City's prior written approval, which approval shall not be unreasonably withheld.

(C) Expenses. If separate representation to fully protect the interests of both parties is necessary, such as conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay the expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. The City's expenses shall include all out-of-pocket expenses that are necessary for the City's defense, such as consultants' fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

(D) Indemnification of the Grantee. To the extent permitted by law, the City shall indemnify, defend and hold harmless the Grantee for claims arising out of the City's use of the Government Access Channels and Emergency Alert System usage by the City.

(E) The grant of this Franchise shall have no effect on the Grantee's duty under the prior franchise to indemnify or insure the City against acts and omissions occurring during the period that the prior franchise was in effect.

5.2 Insurance Requirements

Throughout the term of this Franchise, the Grantee shall, at its own cost and expense, maintain comprehensive general liability insurance and provide the City certificates of insurance designating the City as additional insured and demonstrating that the Grantee has obtained the insurance required herein.

Minimum Insurance Limits. Grantee must keep insurance in effect in accordance with the minimum insurance limits herein set forth:

- (1) Commercial General Liability: Two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) general aggregate for bodily injury, personal injury and property damage.
- (2) Automobile Liability: Two million dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.
- (3) Workers Compensation Insurance: In accordance with State law requirements.
- (4) Excess Liability or Umbrella Coverage: One million dollars (\$1,000,000).

Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the City.

5.3 Bonds

(A) Within sixty (60) days of the Effective Date of this Franchise, Grantee will provide a performance bond to the City, in the total sum of \$250,000, which will remain in effect for the term of this Franchise in a form acceptable to the City. The performance bond is to ensure the faithful performance of Grantee's obligations under the Franchise including the payment by the Grantee of any penalties, claims, liens, fees, or taxes due the City which arise by reason of the operation, maintenance, or construction of the Cable System within the Franchise Area, except as otherwise provided herein. Grantee shall comply with all additional bonding requirements as set forth in the SeaTac Municipal Code.

(B) Grantee's maintenance of the bond(s) shall not be construed to excuse unfaithful performance by Grantee, or limit the liability of Grantee to the amount of the bond(s), or otherwise limit the City's recourse to any other remedy available at law or in equity.

(C) If the Franchise is terminated, or upon expiration or transfer of the Franchise, the City will return the original bond or sign the necessary documentation to release the bond promptly if Grantee does not have any unexpired obligations with respect to right of way work and does not owe funds to the City or is not in default of a material provision of the Franchise.

SECTION 6. CUSTOMER SERVICE

6.1 Customer Service Standards

The City hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

6.2 Subscriber Privacy

Grantee will comply with privacy rights of Subscribers in accordance with federal, State and local laws.

SECTION 7. REPORTS AND RECORDS

7.1 Open Records

The City shall have access to, and the right to inspect, any books and records of Grantee and its Affiliates which are reasonably necessary to monitor and enforce Grantee's compliance with the provisions of this Franchise at the Grantee's regional business office, during normal business hours, and without unreasonably interfering with Grantee's business operations. The City may, in writing, request copies of any such records or books that are not identified as proprietary or confidential, and Grantee shall provide such copies within thirty (30) days of the transmittal of such request. One copy of all reports and records required under this or any other Section shall be furnished to the City at the sole expense of Grantee. If the requested books and records are too voluminous, or identified as proprietary and confidential, or for security reasons cannot be copied or removed, then the City shall inspect them at Grantee's regional office, with any travel related expenses incurred in making such inspection shall be paid by Grantee.

7.2 Confidentiality

Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate of Grantee that is not providing Cable Service in the Franchise Area. The City agrees to keep proprietary or confidential books or records of Grantee confidential to the extent permitted by law. For confidential or proprietary books and records, Grantee shall accommodate the review of these books and records through a Non-Disclosure Agreement negotiated with a City designated third-party consultant. Grantee shall be responsible for clearly and conspicuously identifying the records as confidential or proprietary, and shall provide a brief written explanation as to why such information is confidential or proprietary and how it may be treated as such under State or federal law. The Grantee shall not be required to provide customer information in violation of Section 631 of the Cable Act or any other applicable federal or State privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. If the City receives a demand from any Person for disclosure of any information designated by Grantee as proprietary or confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the Person demanding access to such information within five (5) business days.

7.3 Maps and Records Required

Grantee shall provide in a timely manner upon the City's request:

(A) A route map that depicts the general location of the Cable System facilities placed in the Right-of-Ways. The route map shall identify Cable System facilities as aerial or underground and is not required to depict cable types, number of cables, electronic equipment, and service lines to individual Subscribers. The Grantee shall also provide, if requested, an electronic format of the aerial/underground facilities in relation to a Right-of-Way centerline reference to allow the City to add this information to City's geographic information system program.

(B) A copy of all FCC filings which relate to the operation of the Cable System in the Franchise Area; and

- (C) A copy of Grantee's Cable Services, rates and channel line-up.

7.4 Reports

Upon request, thirty (30) days after the end of the first quarter, Grantee shall submit to the City a written report, which shall include the following information:

- (A) The most recently completed annual corporate report;
- (B) A Gross Revenue statement for the preceding fiscal year and all deductions and computations for the period, and such statement shall be reviewed by a certified public accountant, who may also be the chief financial officer or controller of Grantee;
- (C) A summary of the previous year's activities regarding the development of the Cable System, including, but not limited to, homes passed, beginning and ending plant miles, any technological changes occurring in the Cable System and the number of Subscribers for each class of Cable Service;
- (D) A description of planned construction, if any, for the current year;
- (E) A summary of Subscriber complaints received in the previous year, however the City may request additional information pertaining to Subscriber complaints at any time during the term of this Franchise;
- (F) The number of homes for which cable is available; and
- (G) The number of Subscribers for each class of Cable Service (i.e., Basic and Digital Packages, etc.).

SECTION 8. PROGRAMMING

8.1 Broad Programming Categories

The Grantee shall offer to all Subscribers a diversity of video programming services.

8.2 Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, trap or filter to enable a Subscriber to control access to both the audio and video portions of any or all channels. Such devices, traps or filters will be provided at no charge to the Subscriber, unless otherwise provided by federal law.

8.3 Ascertainment of Customer Satisfaction

In the event Grantee conducts a renewal ascertainment of its Subscribers, Grantee agrees to provide the result of said renewal ascertainment survey to the City within thirty (30) days of the completion thereof.

SECTION 9. ACCESS

9.1 Access Channels

(A) As of the effective date of this Franchise, the Grantee is providing and maintaining to the City three (3) access channels (Channels 21, 26 and 77) for the purposes of government, education and public access programming. The City individually programs the government access channel, Channel 21. Channel 26 is the education access channel and receives a feed from Puget Sound Educational Service District. Channel 77 is the Public Access Channel and receives a feed from Puget Sound Access.

(B) Under the terms of this Franchise, the Grantee shall continue to make available the two (2) access channels to facilitate the City's needs for government and public access Programming.

(C) The City acknowledges that the Grantee's Cable System provides additional benefits to access programming needs beyond the requirements listed above. This is accomplished through the inclusion of other regional access programming within the regional channel line-up that services the Franchise Area. The Grantee will endeavor to provide the Subscribers in the Franchise Area with the other regional access channels so long as the programmers offer them for use on the Cable System.

9.2 Control and Connectivity of Access Channels

(A) The City may authorize designated access providers to control, operate and manage the use of any and all access facilities provided by Grantee under this Franchise, including, without limitation, the operation of access channels. The City or its designee may formulate rules for the operation of the access channels, consistent with this Franchise.

(B) Regarding the City's and designated access providers use of access facilities and access channels, Grantee shall fully cooperate with requests from the City, and provide all necessary assistance related thereto.

(C) As of the effective date of this Franchise, the Grantee shall maintain all existing fiber optic return line(s) to facilitate the City's current access connectivity to Grantee's Headend and hubs. If the City desires to relocate or expand the fiber optic return line(s) to new location(s) over the term of this Franchise, upon one hundred twenty (120) days written request by the City and at the City's cost for Grantee's reasonable time and materials, the Grantee shall construct the requested new fiber optic return line(s).

9.3 Location and Quality of Access Channels

(A) All access channels provided to Subscribers under this Franchise shall be included by Grantee subject to applicable law.

(B) The parties agree that it is the responsibility of the designated access provider(s) to provide a quality PEG signal, to the Grantee at the point of demarcation, which meets or exceeds the FCC technical standards. Notwithstanding the forgoing, the Grantee agrees that it will deliver to subscribers a PEG signal of the same quality it receives from the designated access provider(s) without degradation and in accordance with the FCC technical standards. The Grantee is not precluded from down-converting the received PEG signals (i.e. HD to digital) nor is the Grantee

precluded from digitizing an analog PEG signal, all consistent with FCC technical standards. FCC technical standards shall be used for all testing and assessment of quality under this section.

(C) The Grantee shall provide Headend and hub equipment and routine maintenance and repair and replace, if necessary, any of Grantee's equipment required to carry the access signal to and from the City's and any other access origination point and the Grantee's Headend and hubs for the access channels.

(D) If Grantee makes a change in its Cable System and related equipment and facilities, or in its signal delivery technology, which directly or indirectly affects the signal quality or method or type of transmission of access programming or services, Grantee shall take necessary technical steps and provide necessary technical assistance, including the acquisition of all necessary equipment and full training of access personnel, to ensure that the capabilities of access channels and delivery of access programming are not diminished or adversely affected by such change. For example, live and taped programming must be cablecast with as good or better signal quality than existed prior to such change.

(E) Grantee shall provide as much notice as possible but not less than sixty (60) days advance written notice to the City prior to any relocation of an access channel. In connection with the movement of any of the City controlled access channel(s), Grantee shall provide a bill message on subscriber's bills.

9.4 Access Capital Contribution

(A) Grantee shall provide a capital contribution to the City for their reasonable access related community needs, including, without limitation, equipment purchases and construction and relocation costs. Within forty-five (45) days after the acceptance date of this Franchise by the Grantee, the Grantee shall place an amount of three cents (\$.03) per month on Subscriber billing statements (PEG Fee). From the total dollars received each month throughout the term of this Franchise, the Grantee will remit the monthly total to the City on the same quarterly schedule as franchise fee payments. The PEG Fee may be adjusted by the City upon providing written notice to Grantee at least ninety (90) days prior to implementation. However, the PEG Fee shall not exceed \$.25 per month during the term of this Franchise. Grantee shall not be responsible for paying the PEG Fee with respect to gratis or Bad Debt accounts. The City shall have discretion to allocate the PEG Fee in accordance with applicable law. To the extent the City makes access capital investments using City funds prior to receiving the monthly PEG Fee funds, the City is entitled to apply the subsequent monthly PEG Fee payments from Grantee toward such City capital investments. The City agrees that the PEG Fee may be treated as external costs under applicable federal law.

(B) Upon the Grantee's written request, the City shall submit a report annually on the use of the City specific access channel and capital PEG Fee. The City shall submit a report to the Grantee within one hundred twenty (120) days of a written request. The Grantee may review the records of the City regarding the use of the PEG Fee.

(C) The City shall dedicate the time, personnel and other resources needed to operate the access channel designated herein.

SECTION 10. GENERAL RIGHT-OF-WAY USE AND CONSTRUCTION

10.1 Right to Construct

Subject to the other provisions of this Franchise, Grantee may perform all construction in the Right-of-Ways and applicable easements for any facility needed for the maintenance, operation or extension of Grantee's Cable System.

10.2 General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All equipment shall be durable and installed and maintained in accordance with good engineering practices and comply with applicable law.

10.3 Movement of Facilities During Emergencies

During emergencies, except those involving imminent danger to the public health, safety or welfare, the City shall provide notice to Grantee, at a designated emergency response contact number, to allow Grantee the opportunity to respond and rectify the problem without disrupting Cable Service. If after providing notice, there is no immediate response, the City may move Grantee's facilities, and the City may bill the Grantee for the cost, which shall be paid within 90 days. Should the Grantee and the City disagree about any billed costs, both parties agree to work together to resolve the dispute. If no agreement can be reached, either party may pursue appropriate legal action as allowed by law or under the terms of this Franchise.

10.4 One Call

The Grantee shall, at its own expense, participate in the call before you dig program required under State law.

10.5 Permits Required

Prior to doing any work in the Right-of-Way or other public property (which includes any lane closures or traffic control, and excludes installations or general maintenance that involves no construction and with no disruption to the use of the Right-of-Ways or other public property), Grantee shall apply for, and obtain, in advance, appropriate construction permits from the City. As part of the permitting process, the City may impose such conditions as are necessary for protecting any structures in such Right-of-Ways, and for providing for the proper restoration of such Right-of-Ways and to protect the public and the continuity of pedestrian or vehicular traffic. Grantee shall pay all generally applicable fees for the requisite City construction permits.

10.6 Emergency Permits

In the event that emergency repairs are necessary, Grantee may initiate such emergency repairs, and, if necessary, shall apply for appropriate permits within forty-eight (48) hours after discovery of the emergency.

10.7 Compliance with Applicable Codes

(A) City Codes. Grantee shall comply with all applicable City codes regarding the construction and use of the Right-of-Ways.

(B) Regulations and Safety Codes. Grantee shall comply with the National Electric Code, National Electrical Safety Code and Occupational Safety and Health Administration (OSHA) standards.

10.8 Least Interference

Work in the Right-of-Ways, or on other public property, shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and City residents. Grantee's Cable System shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures or other facilities that may have been laid in the Right-of-Way by, or under, the City's authority. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.9 Poles & Undergrounding Requirements

(A) If all of the wires and lines of electric and telephone service providers in any given area within the Franchise Area are now or in the future placed underground, the Grantee shall place its Cable System distribution and service cables underground at Grantee's expense. In any part of the Franchise Area where the wires and lines of the electric and telephone service providers are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its distribution cables, or any part thereof, aerially or underground in that part of the Franchise Area. In areas where the electric and telephone service providers wiring is aerial, the Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation. Nothing in this subsection shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as power supplies, or pedestals.

(B) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on poles or equipment of the City or of any other Person.

10.10 Restoration of Property

(A) If in connection with the construction, operation, maintenance, upgrade, repair or replacement of the Cable System, the Grantee disturbs, alters, or damages any public property, the Grantee agrees that it shall at its own cost and expense pay for any damage and replace and restore any such property to a condition equal to or better than the condition existing immediately prior to the disturbance.

(B) Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property for one (1) year, unless a longer period is required by the municipal code or any generally applicable ordinance or resolution of the City. If restoration is not satisfactorily and timely performed by the Grantee, the City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover the reasonable cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the City.

10.11 Movement of Cable System Facilities

(A) Relocation at Request of City. Upon thirty (30) days prior written notice to Grantee, City shall have the right to require Grantee to relocate any part of the Cable System within the Right-of-Way or on public property when the safety, health or welfare of the public requires such change, and the expense thereof shall be paid by Grantee. In the event of any capital improvement project exceeding \$500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days written notice to Grantee. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. Should Grantee fail to remove or relocate any such facilities by the date established by the City, the City may effect such removal or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by the City due to Grantee's delay. If the City requires Grantee to relocate its facilities located within the Right-of-Way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Right-of-Way. If the relocation project is associated with a local improvement project and public funds are available to any Person using such Right-of-Way for the purpose of defraying the cost of any of the foregoing, the Grantee may make application for such funds.

(B) In the case of relocation projects where the City hires a contractor to accommodate and coordinate the conversion of overhead utilities within a City capital improvement project, if the Grantee decides to participate in the joint trench opportunity than the Grantee shall pay to the City the Grantee's portion trench costs, including excavation and other associated costs, trench bedding, and backfill commensurate with Grantee's proportionate share of trench usage. However, notwithstanding anything to the contrary set forth herein, if bids from the City's contractor for placement of Grantee's conduits and vaults/pedestals in the supplied joint trench, in the reasonable estimation of the Grantee, are not acceptable, the Grantee shall have the option to utilize contractor(s) of its choice to complete the required work at its sole cost. The City's contractor shall coordinate with the Grantee's contractor(s) to provide reasonable notice and time to complete the placement of the Grantee's facilities in the supplied joint trench.

10.12 Movement of Cable System Facilities for Others

(A) If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holder(s) or any facilities-based entity authorized to provide Cable Services or comparable video programming within the franchise area without a franchise granted by the City, Grantee shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible entity, as long as, the other Person pay for the Grantee's time and material costs associated with the project and Grantee is issued a permit for such work by the City.

(B) The Grantee shall, upon reasonable prior written request of any Subscriber or City residence, relocate its aerial distribution cable facilities underground, as long as, the responsible Person pays for the Grantee's time and material costs associated with the project and Grantee is issued a permit for such work by the City.

(C) In the event an underground conversion of cable facilities is required as part of the street improvement condition(s) of a new land use development, not associated with a City capital or transportation improvement project, this Franchise shall in no way limit the Grantee's right to

recoup all time and material costs associated with the underground conversion of the Cable System from the Person responsible for the project.

(D) At the request of any Person holding a valid permit and upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its wires as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder.

10.13 Tree Trimming

The Grantee shall have the authority to conduct pruning and trimming for access to Cable System facilities in the Right-of-Way. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any damage caused by such trimming.

10.14 Joint Trenching/Boring

To the extent it makes economic sense, Grantee will joint trench or share bores or cuts and work with other providers (such as, but not limited to, telecommunications, gas and electric companies), licensees, permittees, and franchisees so as to reduce the number of Right-of-Way cuts within the City.

SECTION 11. CABLE SYSTEM ARCHITECTURE/TECHNICAL STANDARDS

11.1 Subscriber Network

(A) Grantee's current hybrid fiber coaxial Cable System has the capacity to distribute Video Programming throughout the City. The Cable System is two-way capable and supports a range of Cable Services offered by Grantee. Over the term of this Franchise, the Grantee will maintain the Cable System in a manner consistent with, or in excess of these specifications.

(B) Equipment must be installed so that all closed captioned programming received by the Cable System shall include the closed captioned signal, so long as the closed captioned signal is provided consistent with FCC standards. Equipment must also be installed so that all signals received in stereo are retransmitted in stereo.

(C) Grantee will take prompt corrective action if it finds that any facility or equipment related to the Cable System is not operating as expected, or if it finds that the facility or equipment does not comply with the requirements of this Franchise or applicable law.

(D) Grantee's construction decisions shall be based solely upon legitimate engineering decisions and shall not take into consideration the income level of any particular community within the Franchise Area.

11.2 Emergency Alert

The Grantee shall provide an operating emergency alert system in accordance with and at the time required by the provisions of State and federal laws, including FCC regulations.

11.3 Technical Performance

The technical performance of the Cable System shall meet or exceed all applicable federal technical standards, as they may be amended from time to time, regardless of the transmission technology utilized.

11.4 Cable System Performance Testing

(A) Grantee shall perform on its Cable System all technical tests presently or hereafter required by the FCC.

(B) Upon request, all required FCC technical performance tests may be witnessed by representatives of the City.

(C) Grantee shall maintain written records of its Cable System tests performed. Upon request, copies of such test results will be provided to the City.

(D) Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their recurrence as far as possible. Sites shall be retested following correction.

11.5 Additional Tests

Where there exists a pattern of evidence which in the judgment of the City casts doubt upon the reliability or technical quality of the Cable System, the City shall have the right and authority, upon thirty (30) days prior written notice, to require Grantee to conduct additional tests and analyze and report on the performance of the Cable System. Grantee shall fully cooperate with the City in performing such tests and shall prepare a report, if requested, within thirty (30) days after testing. Such report shall include the following information:

- (A) The nature of the complaint or problem which precipitated the special tests
- (B) The Cable System component tested
- (C) The equipment used and procedures employed in testing
- (D) The method, if any, in which such complaint or problem was resolved
- (E) Any other information pertinent to said tests and analysis, which may be required

SECTION 12. SERVICE EXTENSION AND SERVICE TO PUBLIC BUILDINGS

12.1 Service Availability

(A) Subject to the density provisions described in Section 12.1(B) below and accessibility, Cable Service shall be made available in the entire Franchise area. If such availability does not now exist in the Franchise Area, the Grantee shall complete such construction and wiring and be in a position to offer Cable Service to all residents within six (6) months of such availability. Other areas subsequently annexed shall be provided with Cable Service within twelve (12) months.

(B) Distribution Line Extension Charges. The Grantee must make Cable Service available to every residential Dwelling Unit within the Franchise Area where the minimum density is at least thirty (30) Dwelling Units per strand mile in areas served by overhead facilities and sixty (60) Dwelling Units per mile in areas served by underground facilities. The Grantee may elect to provide Cable Service to areas not meeting the above density standard and charge the requesting resident(s) for the line extension on a time and material cost basis.

(C) Extraordinary Installation Charges. All residents requesting Cable Service and living within one hundred twenty-five (125) aerial feet of existing cable distribution or trunk lines shall have the cable installed at the prevailing published installation rate. In the event a request is made for service and the residence is more than one hundred twenty-five (125) aerial feet from an existing cable distribution or trunk line, such installation shall be completed on a time and material cost basis for that portion of the service line extending beyond one-hundred twenty-five (125) feet.

12.2 Connection of City and Other Public Facilities

Upon request through the designated City representative, the Grantee will voluntarily make available without charge, a standard installation and a minimum of one outlet of the digital level of service for Basic and Expanded Basic Cable Services, including any necessary equipment such as converter boxes necessary to receive the Cable Services, to City administrative buildings as designated by the City (whether they are owned or leased), and fire station(s), police station(s), libraries, access facilities, and K-12 public School(s). If the installation to such building does exceed one hundred twenty-five (125) aerial feet the City or other agency agrees to pay the incremental cost of such installation in excess of one hundred twenty-five (125) feet or a necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry. The Cable Service, provided pursuant to his Section, will not be used for commercial purposes, and the outlets will not be located in jail cells or areas open to the public, except for one outlet to be located in a public lobby in City buildings that will be used by the public for viewing City selected programming. The City will take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System. If additional outlets of Cable Service are needed in such buildings, only the Grantee is authorized to complete the Cable Service expansion to support the outlet installation(s) and the building occupant will pay the standard installation fees. No other Cable Service fees shall be owed in connection with additional outlets.

SECTION 13. INSTITUTIONAL NETWORK (I-NET)

13.1 I-Net History

The Grantee has constructed and maintained I-Net connections to the following City buildings and Schools as agreed upon under the previous Franchise, Ordinance No. 96-1003:

| Site Name | Site Number | Entity | Address | Status |
|-------------------------------|-------------|--------|---------------------------|--------|
| City Hall | ST1 | City | 4800 S. 188th Street | Active |
| Hughes Angle Lake Property | ST2 | City | 19608 International Blvd. | Active |
| Fire Station 45 | ST3 | City | 2929 S. 200th St. | Active |
| Fire Station 46 | ST4 | City | 3521 S. 170th St. | Active |
| Fire Station 47 | ST5 | City | 3215 S. 152nd St | Active |
| North SeaTac Community Center | ST6 | City | 13735 24th Ave. S. | Active |
| SeaTac Maintenance Facility | ST7 | City | 2000 S 136th St | Active |
| Valley View Library | ST8 | City | 17850 Military Rd. S | Active |
| Valley Ridge Community Center | ST9 | City | 4644 S 188th ST | Active |
| Bow Lake Elementary | SST1 | School | 18237 42nd Ave. S | Active |

| | | | | |
|-----------------------------|------|--------|-------------------|--------|
| Madrona Elementary | SST2 | School | 3030 S. 204th St. | Splice |
| McMicken Heights Elementary | SST3 | School | 3708 S. 168th St. | Splice |
| Valley View Elementary | SST4 | School | 17622 46th Ave. S | Splice |
| Chinook Middle School | SST5 | School | 18650 42nd Ave. S | Splice |
| Tyee High School | SST6 | School | 4424 S. 188th St | Splice |

The I-Net is owned by the Grantee, but the City has an exclusive right of use thereof for non-commercial educational and public communication purposes, which right cannot be revoked by the Grantee, or successor companies, assigns or other entities, if any, throughout the term of this Franchise or any renewal(s), extension(s) or transfer(s) thereof so long as the City has met its financial obligations to Grantee.

13.2 Future Fiber Use

The City and Grantee will enter into a separate Fiber Use Agreement that addresses the I-Net’s terms and conditions for the ongoing use, maintenance, and relocation.

SECTION 14. FRANCHISE VIOLATIONS

14.1 Enforcement Action.

Whenever the City seeks to enforce the Franchise agreement, it shall first provide written notice to the Grantee of the nature of the problem and requested action, together with any applicable time frame for response. Any time limits here or elsewhere in the Franchise agreement may be modified by written stipulation of the City and Grantee.

(A) Except in case of urgency or public need relating to management of the Public Right of Way as reasonably determined by the City, the Grantee has thirty (30) days from receipt of such notice to respond in writing to the official sending the notice:

- (i) contesting it and request a meeting to discuss with the City; or
- (ii) accepting it and agreeing to cure as requested within time limits specified; or
- (iii) requesting additional time or other modifications. In such event, Franchisee shall promptly take all reasonable steps to cure the default, keeping the City informed as to the steps to be taken and a projected completion date.

(B) If the City is not satisfied with the response to the enforcement action, the City shall have the right to issue a Material Notice of Default.

14.2 Material Notice of Default.

(A) The City shall notify the Grantee, in writing, of any alleged failure to comply with a material provision of this Franchise, which notice shall specify the alleged failure with reasonable particularity. The Grantee shall have thirty (30) days subsequent to receipt of the notice in which to:

- (i) respond to the City, contesting the City's assertion that a default has occurred, and requesting a meeting in accordance with subsection (B), below; or

(ii) cure the default; or

(iii) notify the City that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall promptly take all reasonable steps to cure the default and notify the City, in writing and in detail, as to the exact steps that will be taken and the projected completion date. In such case, the City may set a meeting in accordance with subsection (B) below to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

(B) If Grantee does not cure the alleged material default within the cure period stated above, or by the projected completion date under this section, or denies the default and requests a meeting in accordance with this section, or the City orders a meeting in accordance with this section, the City shall set a meeting to investigate said issues and the existence of the alleged default. The City shall notify Grantee of the meeting, in writing, and such meeting shall take place no less than thirty (30) days after Grantee's receipt of notice of the meeting. At the meeting, Grantee shall be provided an opportunity to be heard and to present evidence in its defense.

(C) If, after the meeting, the City determines that a default exists, Grantee and the City may agree on a plan and schedule to cure the default. Absent such agreement, the City shall order Grantee to correct or remedy the default or violation within thirty (30) days or within such other reasonable timeframe as the City shall determine. In the event Grantee does not cure the default within such time to the City's reasonable satisfaction, the City may:

(i) recommend the revocation of this Franchise pursuant to the procedures in this franchise; or

(ii) pursue any other legal or equitable remedy available under this Franchise or applicable law.

(D) The determination as to whether a material violation of this Franchise has occurred shall be within the discretion of the City. Any such determination by the City must be in writing and must be based upon findings that include Grantee's submissions, and such determination shall be subject to appeal to the City Council or review by a court of competent jurisdiction under applicable law.

14.3 Revocation.

(A) The City may revoke this Franchise and rescind all rights and privileges associated with this Franchise in any of the following circumstances:

(i) if Grantee fails to cure any material obligation under this Franchise;

(ii) if Grantee willfully fails for more than three (3) days to provide continuous Cable Service;

(iii) if Grantee attempts to evade any material provision of this Franchise or to practice any fraud or deceit upon the City or subscribers;

(iv) if Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

(v) if Grantee willfully misrepresents material facts in the negotiation of this Franchise; or

(vi) if Grantee repeatedly breaches a material provision of the Customer Service Standards.

(B) Prior to forfeiture or termination of the Franchise, the City shall give written notice to the Grantee of its intent to revoke the Franchise. The notice shall set forth the exact nature of the noncompliance. Grantee shall have forty-five (45) days from receipt of such notice to object in writing and to state its reasons for such objection and provide any explanation or cure the alleged default. In the event the City does not receive a timely and satisfactory response from Grantee, it may then seek a termination of the Franchise in accordance with this section.

(C) The City Manager shall submit a report and recommendation as to termination of the Franchise to the City Council who shall conduct a public hearing to determine if revocation of the Franchise is warranted. The City Council shall act as the final decision maker for the City.

(i) At least fourteen (14) calendar days prior to the public hearing, the City Clerk shall issue a public hearing notice that shall establish the issue(s) to be addressed in the public hearing; provide the time, date and location of the hearing; provide that the City shall hear any Persons interested therein; and provide that the Grantee shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to be represented by counsel and to question witnesses, consistent with the adopted public hearing rules.

(ii) The City Council shall hear testimony, take evidence, hear oral argument and receive written briefs. A transcript may be made of such proceeding and the cost shall be shared equally between the parties. A complete record of the public hearing shall be completed including all exhibits introduced at the hearing and an electronic sound recording.

(D) Within thirty (30) days after the close of the hearing, the City Council shall adopt a written decision by a majority vote of the members of the City Council. If the decision of the City Council is to revoke and terminate the Franchise, the decision shall declare that the Franchise is revoked and terminated, and any form of surety is forfeited. The City Council's written decision shall include findings of fact and conclusions derived from those facts which support the decision of the City Council.

(E) Grantee shall be bound by the City Council's decision to revoke the Franchise unless an appeal to a court of competent jurisdiction is timely filed as allowed by applicable law.

14.4 Termination

If this Franchise expires without renewal or is otherwise lawfully terminated or revoked, the City may, subject to applicable law:

(A) Require Grantee to maintain and operate its Cable System on a month-to-month basis until a new cable operator is selected; or Purchase Grantee's Cable System in accordance with federal law.

(B) The City may order the removal of the above-ground Cable System facilities and such underground facilities from the City at Grantee's sole expense within a reasonable period of time as determined by the City. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation that is made by it and shall leave all rights-of-way and public places in as good a condition as that prevailing prior to Grantee's removal of its equipment and without affecting electrical or telephone wires or attachments. The indemnification and insurance provisions shall remain in full force and effect during the period of removal.

(C) If Grantee fails to complete any removal required by subsection 14.4(B) to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs and expenses incurred within thirty (30) days after receipt of an itemized list of the costs and expenses, or the City may recover the costs and expenses through the letter of credit, if any, or other surety if Grantee has not paid such amount within the foregoing time period.

14.5 Alternative Remedies

No provision of this Franchise shall be deemed to bar the City from seeking appropriate judicial relief. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the either party to recover damages, as allowed under applicable law, or to seek and obtain judicial enforcement of either parties obligations, injunctive relief or mandate, or any other remedy at law or in equity. The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation or protection otherwise available to the City, its officers, officials, City Council, Boards, commissions, agents, or employees under federal, State, or local law.

14.6 Effect of Abandonment

If the Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may obtain an injunction, or operate the Cable System, or designate another entity to operate the Cable System temporarily until the Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City. If the City operates the Cable System, or designates another entity to operate the Cable System, the Grantee shall reimburse the City or the City's designee, as applicable, for all reasonable costs and expenses incurred. If Grantee permanently abandons its entire Cable System (namely, for a period of one [1] year or more), then, at the City's sole discretion, such Cable System may become the property of the City, and Grantee shall then submit to the City a bill of sale and other conveyance documents, to be approved in advance by the City Attorney, transferring ownership of such property to the City.

SECTION 15. FRANCHISE RENEWAL

Any renewal of this Franchise shall be governed by and comply with applicable federal law, as amended.

SECTION 16. FRANCHISE TRANSFER

Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. No change in control of the Grantee, defined as an acquisition of 50% or greater ownership interest in Grantee, shall take place without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Grantee. Within thirty (30) days of receiving a request for consent, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the City has not taken action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed given.

SECTION 17. MISCELLANEOUS PROVISIONS

17.1 Notices

Throughout the term of this Franchise, each party shall maintain and file with the other a local address for the service of notices by mail. All notices shall be sent to such respective address, and such notices shall be effective upon the date of mailing. At the effective date of this Franchise:

Grantee's address shall be:

Comcast of Washington IV, Inc.
4020 Auburn Way N
Auburn, WA 98002
Attention: Franchise Director

With a copy to:

Comcast of Washington IV, Inc.
15815 25th Ave W
Lynnwood, WA 98087
Attention: Franchising Department

City's address shall be:

City of SeaTac
4800 South 188th Street
SeaTac, WA 98188
Attention: City Manager/Cable TV Manager

17.2 Cumulative Rights

Subject to applicable law, all rights and remedies given to the City by this Franchise shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City.

17.3 Costs to be Borne by Grantee

Grantee shall reimburse the City for all costs of publication of this Franchise, and any notices prior to any public hearing regarding this Franchise, including hearings contemporaneous with its acceptance of this Franchise.

17.4 Binding Effect

This Franchise shall be binding upon the parties hereto, their permitted successors and assigns.

17.5 Authority to Amend

This Franchise may be amended at any time by mutual written agreement between the parties.

17.6 Governing Laws

This Franchise shall be governed, construed and enforced in accordance with federal, State and local laws and any applicable rules, regulations and orders of the FCC, as such now exist, are later amended or subsequently adopted.

17.7 Captions

The captions and headings of this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of any provision of this Franchise.

17.8 No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other. Further, the Grantee is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the City.

17.9 Cooperation

The parties recognize that it is in their mutual best interests for the Cable System to be operated as efficiently as possible. To achieve this, the parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise.

17.10 Waiver

The failure of the City at any time to require performance by Grantee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same, nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

17.11 Severability

If any Section, subsection, paragraph or provision of this Franchise is determined to be illegal, invalid or unconstitutional by any court or agency of competent jurisdiction, such determination shall have no effect on the validity of any other Section, subsection, paragraph or provision of this Franchise, all of which will remain in full force and effect for the term of the Franchise.

17.12 Entire Agreement

This Franchise and Exhibits represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral and written negotiations between the parties.

17.13 Force Majeure

The Grantee will not be held in violation under, or in noncompliance with, the provisions of this Franchise, nor suffer any enforcement relating thereto, where such noncompliance or alleged violation occurred or was caused by circumstances reasonably beyond the ability of the Grantee to control. This includes war or riots, civil disturbances, floods or other natural catastrophes, labor stoppages or slowdowns not attributable to Grantee's employees, or power outages exceeding back-up power supplies, and work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached as well as verifiable unavailability of materials and/or qualified labor to perform the work necessary.

Grantee shall have a reasonable time, under the circumstances, to perform the affected obligation under this Franchise or to procure a substitute for such obligation which is satisfactory to the City.

If Grantee believes that a reason beyond its control has prevented or delayed its compliance with the provisions of this Franchise, Grantee shall provide documentation as reasonably required by the City to substantiate the Grantee's claim. If Grantee has not yet cured the deficiency, Grantee shall also provide the City with its proposed plan for remediation, including the timing for such cure.

17.14 Attorneys' Fees

If any action or suit arises in connection with this Franchise (excluding Franchise renewal proceedings), the court shall determine which party shall be entitled to recover all of its reasonable attorneys' fees, costs and expenses in connection therewith, in addition to such other relief as the court may deem proper.

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of SeaTac, Washington, this ___ day of _____, 2013.

CITY OF SEATAC, WASHINGTON

By: _____
Title: _____

Attest:

By: _____
City Clerk

Approved as to Legal Form:

By: _____
City Attorney

Publication Date
Accepted and approved this ____ day of _____, 2013.

COMCAST OF WASHINGTON IV, INC.

By: _____
Its: _____

Attest:

By: _____
Secretary

FIBER USE AGREEMENT

THIS FIBER USE AGREEMENT (the "Agreement") is entered into as of the _____ day of _____, 20__ (the "Effective Date"), between Comcast of Washington IV, Inc., Washington corporation, with offices at 15815 25th Avenue West, Lynnwood, Washington, 98087 (jointly hereafter the "Company"), and City of SeaTac, Washington, a legal incorporated City in the State of Washington, with offices at 4800 S. 188th Street SeaTac, WA 98188, (hereafter "City").

WHEREAS, Company has constructed and installed certain fiber optic strands in the City of SeaTac; and

WHEREAS, Company will permit the City to use such fiber optic strands in accordance with the terms and conditions set forth below; and

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. USE OF FIBER

Pursuant to the terms and conditions of this Agreement, the Company will make available to the City, for exclusive use by the City and other authorized users under this agreement, the existing six (6) strands of Company's multi-strand single mode fiber optic cable, which strands originate at the City's City Hall and terminate at the points set forth in Exhibit A. The strands are hereinafter referred to as the "Facilities," the specifications of which are set forth in Exhibit B.

2. TERM

This Agreement shall become effective on the Effective Date, and it shall remain in full force and in effect for a period of ten (10) years from the Effective Date, unless terminated earlier in accordance with this Agreement.

3. MAINTENANCE AND REPAIR OBLIGATIONS

A. All maintenance and repair of the Facilities shall be performed by or under the direction of Company, in accordance with Exhibit C. The City may not, nor permit others to, rearrange, disconnect, remove, attempt to repair or otherwise tamper with any of the Facilities or equipment installed by Company, except with the written consent of Company, which consent shall be at Company's sole discretion.

B. When electric and telephone utility wiring in the City are relocated underground, the Company shall be responsible for relocating Facilities when the Company's Cable System is placed underground at the same time. Notwithstanding the foregoing, should an increased cost differential arise because of the Company's having to do additional splicing, increase the size of its conduit, vaults, or fiber sheath (because of the undergrounding), then the

EXHIBIT "B"

City shall pay the reasonable, incremental cost differential pertaining to the Facilities associated with this Agreement.

4. USE OF FACILITIES

A. The City shall use the Facilities solely for the purpose of the transmission of non-commercial private network communication (for example, for educational and public safety communications) services between the locations described in Exhibit A. In the context of the Facilities, non-commercial excludes the City's leasing or reselling Facilities capacity to a third party for any purpose.

B. The Facilities will be for the use of the City and City approved qualified users, which shall include: schools, fire stations and other public safety facilities, the library, and other municipal facilities that the Company and the City agree may use the Facilities provided that they are located within the City of SeaTac.

C. The City shall not use, or permit any other entity or person to use, the Facilities in conjunction with high-speed internet access service to residential or commercial customers located in Company's franchise area, cable television service, franchised or non-franchised satellite master antenna television service, direct broadcast satellite based service or any subscription-based multichannel video service. The City may not use, or knowingly permit any other entity or person to use, the Facilities for the provision of any services to or from locations other than the locations set forth in Exhibit A.

D. The City shall not use, or permit any other entity or person to use, the Facilities in violation of this Agreement, any law, rule, regulation or order of any governmental authority having jurisdiction over the Facilities.

E. Company may require the City to immediately shut down its transmission of signals if the transmission is causing interference to others. The City shall reimburse Company for any and all costs that are incurred by Company in its efforts to eliminate interference caused by the City's transmission of signals over the Facilities.

5. TITLE

All right, title, and interest in the Facilities and any other equipment or facility of Company shall, at all times, remain exclusively with Company.

6. LIENS AND ENCUMBRANCES

Neither party, directly or indirectly, shall create or impose any lien on the property of the other party, or on the rights or title relating thereto, or any interest therein, or in this Agreement. Each party will promptly, at its own expense, take such action as may be necessary to duly discharge any lien created by it on the property of the other. However, nothing in this Agreement shall be so construed as to prohibit the owner of any facilities from permitting the creation or imposition of a lien or security interest on facilities that it owns.

7. INDEMNIFICATION; WARRANTIES

A. The City will indemnify and hold Company harmless against any and all loss, liability, damage and expense (including reasonable attorneys' fees) arising out of any demand, claim, suit or judgment for damages to any property or bodily injury to any persons, including, without limitation, the agents and employees of either party hereto which may arise out of or be caused by the City's use of the Facilities or any negligent act or omission of the City.

B. NOTWITHSTANDING ANY CONTRARY PROVISION IN THIS AGREEMENT, IN NO EVENT SHALL COMPANY BE LIABLE TO THE CITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, THOSE BASED ON LOSS OF REVENUES, PROFITS, OR BUSINESS OPPORTUNITIES, FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOSS OF CAPITAL, COST OF SUBSTITUTE PRODUCT(S), FACILITIES, OR SERVICES, OR DOWN TIME COST, WHETHER OR NOT COMPANY HAD OR SHOULD HAVE HAD ANY KNOWLEDGE, ACTUAL OR CONSTRUCTIVE, THAT SUCH DAMAGES MIGHT BE INCURRED, AND EVEN IF COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

C. ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PURPOSE OR USE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED BY COMPANY.

8. REQUIRED APPROVALS

The City shall obtain any government authorizations and approvals required for the City's use of the Facilities. Company shall cooperate to that end as reasonably required.

9. INSURANCE

The City shall, at its own expense, secure and maintain in force, throughout the term of this Agreement, General Liability Insurance, with competent and qualified issuing insurance companies, covering any and all damage caused by the City's negligence to the Facilities on the Company's side demarcation termination panel. The total available limits to all insureds will not be less than \$2,000,000 Combined Single Limit for each occurrence and \$2,000,000 aggregated for each annual period. Such insurance may be provided in policy or policies, primary and excess, including the so-called Umbrella or Catastrophe forms and each such policy shall be endorsed to show Company, its parent and affiliates and its and their directors, officers, agents, servants, employees and independent contractors as additional insureds. All policies required by this Section 9 shall require the insurance companies to notify Company at least thirty (30) days prior to the effective date of any cancellation or material modification of such policies.

10. NOTICES

All notices, demands, requests or other communications given under this Agreement shall be in writing and be given by personal delivery, certified mail, return receipt requested, or nationally recognized overnight courier service to the address set forth below or as may subsequently in writing be requested.

If to the City:

City of SeaTac
4800 S. 188th Street
SeaTac, WA 98188
Attention: City Manager

If to the Company:

Comcast of Washington IV, Inc.
4020 Auburn Way N
Auburn, WA 98002
Attention: Director, Franchising and Government Affairs

With a copy to:

Comcast of Washington IV, Inc.
15815 25th Ave W
Lynnwood, WA 98087
Attention: Franchising Department

11. DEFAULT AND TERMINATION

A. Company may terminate this Agreement, and may pursue all other remedies available to Company at law and/or equity, upon thirty (30) days notice to the City if the City knowingly uses or attempts to use the provided fibers for any purpose other than the purposes authorized in this Agreement and does not abandon such use immediately upon notice by Company; or (ii) upon thirty (30) days notice to the City, if the City defaults in any other obligation hereunder and fails to cure such default within the aforesaid thirty (30) day period.

B. Company may terminate this Agreement upon thirty (30) days' prior written notice to the City, (i) if Company loses or fails to obtain renewal of any approval, consent, authorization, license, certificate, franchise, or permit required to provide the service hereunder, or if such approval, consent, authorization, license, certificate, franchise, or permit is suspended for a period longer than sixty (60) days and not renewed, or if it is adversely modified by a governmental authority, or (ii) if continuing to provide the fibers as provided for herein would materially interfere with Company's ability to obtain or maintain approvals, consents, authorizations, licenses, certificates, franchises, permits or consents necessary to the operation of its business.

C. Company may terminate this Agreement without notice only to the extent that immediate termination is required by law, regulation or a governmental authority.

D. The City may terminate this Agreement upon forty-five (45) days' written notice to Company, if Company defaults in any material obligation hereunder and fails to cure such default within the aforesaid forty-five (45) day period.

E. Upon termination of this Agreement, all rights of the City to the Facilities shall cease and Company may disconnect, terminate, remove or use the Facilities for any other purpose.

12. WAIVER

The failure of either party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall nevertheless be and remain in full force and effect.

13. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the state in which the Facilities are located without reference to its choice of law principles.

14. RULES OF CONSTRUCTION

The captions and headings in this Agreement are strictly for convenience and shall not be considered as interpreting it or as amplifying or limiting any of its content.

15. ASSIGNMENT

The City shall not assign this Agreement, without the express written consent of Company, which consent shall be at Company's sole discretion. Nor shall the City assign, transfer or sublease, directly or indirectly, on an integrated or unintegrated basis, in whole or in part, the Facilities or its right to use the Facilities as granted herein without the express written consent of Company, which consent shall be at Company's sole discretion. Notwithstanding the foregoing, the City need not obtain consent of the Company to assign this Agreement (a) to a parent, affiliate or subsidiary of the City, or (b) to the surviving entity of a merger or consolidation, or to any entity that acquires all or substantially all of the assets or shares of the City, but shall give written notice to Company of any such assignment no later than thirty (30) days after such an assignment takes place.

16. ENTIRE AGREEMENT

This Agreement, including the Exhibits, which are hereby incorporated herein as an integral part of this Agreement, constitutes the entire agreement between the parties hereto with respect to the subject matter and geographical locations referred to and supersedes any and all

prior or contemporaneous agreements whether written or oral. This Agreement cannot be modified except in writing signed by the party against whom enforcement of the modification is sought.

17. RELATIONSHIP OF THE PARTIES

The relationship between the City and Company shall not be that of partners, agents or joint venturers for one another and nothing contained in this Agreement shall be deemed to constitute a partnership, agency, or joint venture agreement between them.

18. FORCE MAJEURE

Company shall not be deemed to be in breach of this Agreement during any period of time in which it is unable to perform its obligations as a result of the occurrence of an event of force majeure, which shall include, but not be limited to, acts of God, act or order of government, denial or access to or loss of utility service or facilities or any other circumstance beyond the reasonable control of Company. The required time for Company's performance hereunder shall be extended to account for any such force majeure event.

19. CONDEMNATION

Upon condemnation of all or any material portion of the facilities used by Company to provide service to the City, Company, by notice to the City, may discontinue or suspend service under this Agreement.

20. MISCELLANEOUS

If any provision of this Agreement is found contrary to law or unenforceable by any court, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Comcast of Washington IV, Inc.

City of SeaTac

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

ORIGINATION AND TERMINATION POINTS

| Site Name | Site Number | Entity | Address | Status |
|-------------------------------|--------------------|---------------|---------------------------|---------------|
| City Hall ** | ST1 | City | 4800 S. 188th Street | Active |
| Hughes Angle Lake Property | ST2 | City | 19608 International Blvd. | Active |
| Fire Station 45 | ST3 | City | 2929 S. 200th St. | Active |
| Fire Station 46 | ST4 | City | 3521 S. 170th St. | Active |
| Fire Station 47 | ST5 | City | 3215 S. 152nd St | Active |
| North SeaTac Community Center | ST6 | City | 13735 24th Ave. S. | Active |
| SeaTac Maintenance Facility | ST7 | City | 2000 S 136th St | Active |
| Valley View Library | ST8 | City | 17850 Military Rd. S | Active |
| Valley Ridge Community Center | ST9 | City | 4644 S 188th ST | Active |
| Bow Lake Elementary | SST1 | School | 18237 42nd Ave. S | Active |
| Madrona Elementary | SST2 | School | 3030 S. 204th St. | Splice |
| McMicken Heights Elementary | SST3 | School | 3708 S. 168th St. | Splice |
| Valley View Elementary | SST4 | School | 17622 46th Ave. S | Splice |
| Chinook Middle School | SST5 | School | 18650 42nd Ave. S | Splice |
| Tyee High School | SST6 | School | 4424 S. 188th St | Splice |

** = Origination Point

EXHIBIT B

FIBER SPECIFICATIONS

The Facilities are constructed, terminated, and maintained in accordance with Company's standard practices. Each Facilities connection has been terminated at an internal point of demarcation in a Company standard fiber termination panel, unless the City provided another means of termination, in which case the City provided, at its expense, all necessary fiber termination equipment. At each fiber termination location the City provided wall mount backboards and a power source for the basic termination, or such equipment as chosen by the City as a replacement.

EXHIBIT C

REPAIR & MAINTENANCE

1. REPAIR & MAINTENANCE:

In the event of a Facilities failure, the City will notify Company at it's XOC (Local Monitoring Center) in Everett at 1-888-824-8289. Company's dispatch will contact the Company manager and inform them of the situation. The Company manager will contact appropriate maintenance personnel and implement a detailed plan for restoration.

2. INTERRUPTION OBLIGATIONS:

The City acknowledges that the Company does not actively monitor the signal transmission over the Facilities, and may have no notice of a service outage but for a City-initiated notification. Upon notice of a Facilities failure, the Company shall respond on-site to any routine trouble calls within four (4) hours of receipt of notification by the City and shall actively begin working on the problem until it is resolved. In order to document its work on the facilities, the Company will use its normal trouble ticket processes. In the event of an inability to initially resolve the problems, the Company shall follow its normal escalation procedures for correcting the Facilities outage. The Company will communicate with the City's designated representative following resolution of the problems and, at the City's request, provide documentation of the problem resolution. Such documentation shall include, among other things, a description of the cause and resolution of the problem for each trouble ticket.



CITY OF SEATAC



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE SEATAC CITY COUNCIL WILL HOLD A PUBLIC HEARING AT THEIR MEETING ON **TUESDAY, OCTOBER 8**, AT 6:30 PM IN THE SEATAC CITY HALL COUNCIL CHAMBERS, 4800 SOUTH 188TH STREET. THIS HEARING IS TO CONSIDER THE PUBLIC INTEREST TO BE SERVED OR ADVANTAGED BY THE FOLLOWING ACTIONS:

PROJECT: Entering into a Second Amendment to the Development and Transit Way Agreement for Sound Transit Central Link Light Rail South Link Project.

FILE NO.: DEV11-00001

APPLICANT: Sound Transit
401 S. Jackson St.
Seattle, WA 98104

CONTACT: Soraya Lowry, City of SeaTac, 206.973.4813, slowry@ci.seatac.wa.us

LOCATION: From the existing SeaTac/Airport Station (S. 176th Street and International Boulevard) to a new station to be located at South 200th Street/28th Avenue South, primarily following along 28th Avenue South.

DESCRIPTION: This proposal is to enter into a Second Amendment to the Development and Transit Way Agreement between the City and Sound Transit for the South Link Project. The primary purpose of the Amendment is to 1) identify specific additional departures from development regulations that will provide a benefit to the City of an equal or greater value relative to the standard from which departure is being allowed and 2) replace the temporary station name of the "South 200th Street Station" with the permanent name of the "Angle Lake Station."

ANY PERSONS WHO WOULD LIKE TO COMMENT OR MAY BE AFFECTED BY THIS PROPOSAL MAY APPEAR AT THE HEARING AND BE HEARD IN SUPPORT OF OR IN OPPOSITION TO THIS PROPOSAL. ADDITIONAL INFORMATION MAY BE OBTAINED AT THE CITY MANAGER'S OFFICE, SEATAC CITY HALL (PHONE 206-973-4820/TDD 973-4808, EMAIL SLOWRY@CISEATAC.WA.US).

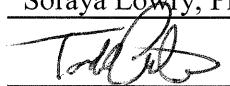



Copies of the Development Agreement can also be viewed at the City's website:
<http://www.ci.seatac.wa.us/index.aspx?page=99>

DATE OF POSTING and PUBLISHED IN THE SEATTLE TIMES: **SEPTEMBER 24, 2013**

SeaTac City Council
REQUEST FOR COUNCIL ACTION
 Department Prepared by: City Manager's Office

Agenda Bill #: **3550**

TITLE: A Resolution authorizing the City Manager to execute a Second Amendment to the Development and Transit Way Agreement for the South Link Light Rail Project.

| | |
|--|--|
| October 2, 2013 | |
| ___ Ordinance <u>X</u> Resolution ___ Motion ___ Info. Only ___ Other | |
| Date Council Action Requested: <u>RCM 10/22/13</u> | |
| Ord/Res Exhibits: <u>Exhibit A: Second Amendment to Development Agreement with Exhibits</u> | |
| Review Dates: <u>RCM and Public Hearing: 10/08/13</u> | |
| Prepared By: <u>Soraya Lowry, Program Manager</u> | |
| Director: <u></u> | City Attorney: <u></u> |
| Finance: <u></u> | BARS #: <u>106.337.00.00.001</u> |
| City Manager: <u></u> | Applicable Fund Name: <u>Transit Planning Fund</u> |

Handwritten initials/signature

SUMMARY: The proposed Resolution authorizes the City Manager to execute, in substantially similar form as attached, the Second Amendment to the Development and Transit Way Agreement between the City and Sound Transit for the South Link Project. The primary purpose of the Amendment is to identify specific additional departures from development regulations that will provide a benefit to the City of an equal or greater value relative to the standard from which departure is being allowed.

DISCUSSION / ANALYSIS / ISSUES: The City of SeaTac and Sound Transit entered into the Development and Transit Way Agreement for the South Link Project in July 2012 to mitigate project impacts, enhance public benefits resulting from the Project and provide Sound Transit with greater certainty in managing the South Link Project. In June 2013, the City and Sound Transit executed a First Amendment to the Development and Transit Way Agreement to identify the 28th/24th Avenue South arterial extension project as an alternative project mitigation measure and Sound Transit's contribution toward funding the project.

Since that time, the City and Sound Transit have worked together in preparation for Sound Transit's procurement of a design-build contractor for the project's parking and plaza facilities to define additional departures from development regulations that will maximize the City and Sound Transit's interests. These departures are captured in the proposed Second Amendment to the Development and Transit Way Agreement and are summarized below.

| Departure | Public Benefit |
|--|--|
| Parking | |
| Allow permanent surface parking under guideway south of station. | <ul style="list-style-type: none"> No structures can be built under guideway, so parking close to station entry is highest and best use. |
| Extend interim surface parking boundary to include properties acquired from the Port and Hattaway. | <ul style="list-style-type: none"> Consistent with DA intent to avoid building more parking than will be needed once extend further south. Limits impact to other adjacent properties. |

| Departure | Public Benefit |
|--|--|
| Landscaping | |
| Extend departure from landscaping requirements under guideway to new permanent surface parking under guideway (low survival rates). | <ul style="list-style-type: none"> • Provide sight-obscuring fencing/barrier at eastern and western boundaries of Sound Transit’s property to block glare of car headlights. |
| No landscape buffer required between Sound Transit’s garage and PSE substation. | <ul style="list-style-type: none"> • Avoids dead zone which could attract undesirable activities and pose fire hazard. • Increases land available for beneficial uses including parking garage, public plaza, retail, redevelopment pads, etc. |
| Provide 5’ type II landscaping for entire perimeter of triangle (S. 200 th , 26 th Ave. S., 28 th Ave. S.). | <ul style="list-style-type: none"> • Increases land available for beneficial uses including parking garage, public plaza, retail, redevelopment pads, etc. |
| Traffic Circulation | |
| New traffic signal to be located at S. 200th St./28th Ave. S. intersection. | <ul style="list-style-type: none"> • Facilitates access/egress for proposed parking garage and passenger drop-off/area. • Improves performance of station area traffic network. |
| Limit vehicle access on S. 200th to no more than one curb cut. | <ul style="list-style-type: none"> • Protects pedestrian environment by limiting sidewalk interruptions. • Reduces areas of potential pedestrian/vehicle conflict. • Assures safe sight distances. |
| Not applicable. | <ul style="list-style-type: none"> • Sound Transit’s parking facilities will not preclude City’s development of a potential future roundabout at 28th Ave. S./26th Ave. S. intersection. |
| Retail | |
| Retail space can be constructed detached from garage. | <ul style="list-style-type: none"> • Retail space to be located to optimize pedestrian activation of plaza. |
| Sound Transit to provide 2,500 square feet of convertible core and shell, plus service/storage and restrooms. | <ul style="list-style-type: none"> • Retail sized for what market can support to better ensure space will be leased. |
| Not applicable. | <ul style="list-style-type: none"> • 12’ ceiling height to provide flexibility for tenant build-out, positive customer experience. |
| Not applicable. | <ul style="list-style-type: none"> • 10 parking stalls in garage (as per code). |

| Departure | Public Benefit |
|------------------------|---|
| Plaza | |
| Not applicable. | <ul style="list-style-type: none"> • Provide adequate space for transit circulation and community gathering. |
| Not applicable. | <ul style="list-style-type: none"> • Provide space and utility hookups to support programming (e.g., 2-4 food trucks, farmer’s market, etc.). |
| Not applicable. | <ul style="list-style-type: none"> • Include outdoor seating, pedestrian scale lighting, landscaping, public art and access to sun/natural lighting and weather protection. |
| Not applicable. | <ul style="list-style-type: none"> • Plaza programming/event-related maintenance to be addressed in future agreement. |
| Area Topography | |
| Not applicable. | <ul style="list-style-type: none"> • Plaza area will be visually and physically connected to bus zone via ADA-compliant route • Vertical surfaces (e.g., retaining walls) facing public streets will receive architectural treatment and/or be softened with landscaping. |

The proposed amendment also provides a mechanism for Sound Transit to reimburse the City \$4,500, which, taken together with in-kind contributions, constitutes half of the cost of an urban design workshop that was conducted to explore opportunities for transit oriented development around the station.

Lastly, the proposed amendment replaces the temporary station name of the “South 200th Street Station” with the permanent name of the “Angle Lake Station,” as adopted by the Sound Transit Board.

RECOMMENDATION(S): It is recommended that the City Council pass the proposed Resolution.

FISCAL IMPACT: The proposed Amendment commits Sound Transit to contribute \$4,500 to reimburse the City for a joint transit-oriented development workshop.

ALTERNATIVE(S): Do not pass the Resolution.

ATTACHMENTS: None.

RESOLUTION NO. _____

A RESOLUTION of the City Council of the City of SeaTac, Washington, authorizing a Second Amendment to the Development and Transit Way Agreement between the City and Central Puget Sound Regional Transit Authority.

WHEREAS, the City and the Central Puget Sound Regional Transit Authority (Sound Transit) entered into a Development and Transit Way Agreement dated July 20, 2012; and

WHEREAS, the City and Sound Transit find that it is appropriate to amend the July 20, 2012 Agreement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON HEREBY RESOLVES as follows:

1. The City Manager is authorized to execute, on behalf of the City, a Second Amendment to the Development and Transit Way Agreement with Sound Transit, generally in the form attached to this Resolution as Exhibit A; and
2. The City Clerk shall cause the fully executed document to be filed with the King County Recorder, consistent with the terms of RCW 36.70B.190 and the Development Agreement.

PASSED this _____ day of _____, 2013 and signed in authentication thereof on this _____ day of _____, 2013.

CITY OF SEATAC

Tony Anderson, Mayor

ATTEST:

Kristina Gregg, City Clerk

Approved as to Form:



Mary E. Mirante Bartolo, City Attorney

[Sound Transit Development Agreement Amendment #2]

**SECOND AMENDMENT
TO THE DEVELOPMENT AND TRANSIT WAY AGREEMENT
FOR THE SOUND TRANSIT CENTRAL LINK LIGHT RAIL SOUTH LINK PROJECT
BETWEEN THE CITY OF SEATAC, WASHINGTON
AND SOUND TRANSIT**

This **SECOND AMENDMENT TO DEVELOPMENT AND TRANSIT WAY AGREEMENT** (“Second Amendment”) is made by and between the City of SeaTac, a municipal corporation (“SeaTac” or “City”), and Central Puget Sound Regional Transit Authority, a regional transit authority organized under RCW 81.112 (“Sound Transit”), with reference to the following facts:

RECITALS

WHEREAS, the City and Sound Transit entered into a Development and Transit Way Agreement for Sound Transit Central Link Light Rail South Link Project between the City of SeaTac, Washington and Sound Transit on July 20, 2012 and a First Amendment to the South Link Development and Transit Way Agreement between the Central Puget Sound Regional Transit Authority and the City of SeaTac on June 18, 2013 (as amended, the “Agreement”); and

WHEREAS, the Agreement identified certain development standards from which departures were allowed under the provisions of the SeaTac Municipal Code (“SMC”) 15.22.055.C.9 and 15.22.055.C.11 regulating development agreements. The City and Sound Transit have worked together in preparation for Sound Transit’s procurement of a design-build contractor for the Project’s (as defined in the Agreement) park-and-ride facilities and Station triangle improvements to identify specific additional departures from development regulations that will provide a benefit to the City of an equal or greater value relative to the standard from which departure is being allowed; and

WHEREAS, by Motion 2012-92, the Sound Transit Board selected “Angle Lake Station” as the permanent station name of the elevated station located at South 200th Street along 28th Avenue South, replacing the temporary working name of the “South 200th Street Station,” and

WHEREAS, the parties desire to enter into this Second Amendment to amend the Agreement to include the agreed-upon development regulations departures, update the station name to the “Angle Lake Station,” and make certain other changes as further described herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and Sound Transit do hereby agree to amend the Agreement as described below.

1. Section 1.17 of the Agreement is hereby amended to replace the name “South 200th Street Station” with the permanent station name “Angle Lake Station.” References throughout the Agreement to the “South 200th Street Station” or the “Station” shall mean the Angle Lake Station.

2. Section 4.5 of the Agreement is hereby amended as follows:

a. Section 4.5(c) is deleted and replaced in its entirety as follows:

(c) SMC 15.36.220.A.2. Plantings installed under the elevated guideway have low survival rates due to lack of sunlight; therefore the City has determined that installing alternative treatments (e.g. hardscape) underneath the guideway structure confers greater benefit than the landscaping required by this section. Sound Transit may use the area beneath the elevated guideway south of the Station as a permanent surface parking facility. To provide perimeter screening, Sound Transit will install sight-obscuring fencing at the western boundary of Sound Transit's property. Sound Transit will install a 30" tall, sight-obscuring barrier at the eastern boundary of Sound Transit's property where the grade is less than three (3) feet below the adjacent sidewalk.

b. Section 4.5(e) is deleted and replaced in its entirety as follows:

(e) SMC 15.36.410. For interim parking only, subject to subsection (h) below, departure is allowed from the Threshold Standard (as defined in the SMC) for the inclusion of Structured Parking. Sound Transit's parking demand studies for the Project predict an estimated demand for 1,050 parking spaces while the station is the light rail system's southern terminus. When the system is extended southwards and the Station becomes an in-line station, demand is estimated to drop to 700 parking spaces. To avoid building more parking than is estimated to be needed after the system expansion, and thereby possibly reduce opportunities for transit-oriented development around the station, the City agrees that interim parking on nearby existing surface parking lots located within one-quarter mile of the Station is a desirable method to meet the higher intermediate demand for parking and to encourage transit-oriented development in the station area. Therefore, the City finds that interim parking need not be accommodated in the structured facilities. In addition, the City will permit permanent surface parking under the guideway south of the Station. The City recognizes that this use is the highest and best use of the land because no structures can be developed upon it. The permanent surface parking is located near a station entry and is therefore highly desirable. The intent of SMC 15.36.410 will be met by the parking structure the Project will provide elsewhere on the Station site.

c. Section 4.5(f) is deleted and replaced in its entirety as follows:

(f) SMC 15.14.090. For interim parking only, subject to subsection (h) below, within the Project area as shown on the revised Exhibit E-1, attached hereto, departure is allowed from Landscaping of Surface Parking Areas.

d. A new Section 4.5(i) is added as follows:

(i) SMC 15.14.060. The City shall not require a landscape buffer between Sound Transit's parking facilities and the adjacent Sweptwing Substation owned by Puget Sound Energy ("PSE"). The City will not require Sound Transit to comply with sideyard setback requirements in locating parking facilities along the shared property line with PSE.

e. A new Section 4.5(j) is added as follows:

(j) SMC 15.14.060. In lieu of the various perimeter landscaping treatments required by SMC regulations for street frontages, facades and side/rear yards, the Project will provide not less than 5' of type II landscaping for the entire perimeter of the triangle abutting South 200th Street, 26th Avenue South, and 28th Avenue South, except where bus drop-off, plaza and Station entries and the passenger drop-off area are located.

3. Section 4.7 of the Agreement is hereby deleted and replaced in its entirety as follows:

Retail space requirements of the HCT code (SMC 15.36.440) shall be understood to be fulfilled by dedicated convertible retail/commercial structures, potentially fully forward of the face of parking structure and may be typical "core and shell" construction utilized for commercial/retail development where tenants have not been identified at the time of construction. Therefore the first floor height of the garage may be less than ten (10) feet in clear height provided the other retail/commercial requirements are fulfilled. The first floor of the garage need not be sprinklered if the retail/commercial component is fully sprinklered and separated from the parking by one-hour construction. Alternatives to the requirements of SMC 15.36.440 that are mutually agreed upon by the parties and supportive of the City's Comprehensive Plan's designations for properties in the station area may be considered and implemented as designs to accommodate station parking are further developed. Sound Transit will provide at least 2,500 square feet of convertible "core and shell" space with minimum 12 foot ceiling height, including a grease trap interceptor, and finished restrooms and service/storage space for retail use. The retail space may be constructed as attached or independent structures and will be located to optimize pedestrian activation of the plaza area defined in Section 6.5k). Sound Transit shall allocate ten (10) dedicated parking stalls in the parking garage to serve the retail space. The Parties agree that retail space meeting these criteria is more likely to attract tenants and patrons than space provided in strict adherence to regulations, and therefore the requirements of SMC 15.36.440 shall be deemed met by these specifications.

4. Section 4.8 of the Agreement is hereby deleted and replaced in its entirety as follows:

Sound Transit shall construct restroom(s) pursuant to the City's HCT Code. However, consistent with Sound Transit Board Policy described in Motion M98-67, Sound Transit shall not be responsible for the maintenance and operation of

the restroom(s). Restroom(s) constructed by the Project will serve retail spaces described in 4.7 and transit customers, and leases for the retail space, which will include triple-net charges (e.g. proportional share of costs for insurance, property taxes, and janitorial/maintenance services), will require that restroom(s) remain open to the public during regular hours of business.

The Parties shall continue good faith negotiations to execute a mutually acceptable future agreement before January 1, 2016 to address the leasing of the retail spaces and the operation, maintenance and repair of the restroom(s). The contemplated agreement will also address programming, operation, and event-related maintenance of the community-oriented open space adjacent to the Station entry plaza in which retail space may be provided. Options which the Parties will consider may include, but not be limited to: the transfer of ownership of the commercial space to the City; a master lease of the commercial space; or a right of first option or refusal for the City in the event that Sound Transit determines it is in its best interest to offer the commercial space for sale at any time in the future.

5. Section 6.2 of the Agreement is hereby amended as follows:

a. Section 6.2(c) is deleted and replaced in its entirety as follows:

(c) A new traffic signal on South 200th Street at the intersection with 28th Avenue S. to facilitate access/egress for the parking garage at the Station and improve station area traffic network performance. No more than one curb cut on South 200th Street will be allowed for site access, which shall be restricted to right turn in/ right turn out only. The Parties shall comply with the additional terms and conditions described in the S445 Site Access Concurrence Letter dated August 2, 2013, attached and incorporated herein as Exhibit N, including provisions for a refined channelization study to be conducted after the parking garage configuration and site circulation routes are known.

b. A new Section 6.2(k) is added as follows:

(k) Sound Transit's development of parking facilities on the land bounded by South 200th Street, 26th Avenue South, and 28th Avenue South shall not preclude the City's future development of a traffic roundabout at the intersection of 26th Avenue South and 28th Avenue South based on the conceptual layout illustrated on page 2 of the S445 Site Access Concurrence Letter attached as Exhibit N.

6. Section 6.5 of the Agreement is hereby amended as follows:

a. A new Section 6.5(k) is added as follows:

(k) SMC 15.36.120.C. Sound Transit will provide open space and associated paving and landscaping, in the form of plazas, at principal ground-level Station entry points

as part of the Project, in an amount sufficient to accommodate transit circulation needs and a community gathering space, to be located near the northern Station entry, with delineations between the two functions, as needed, to ensure that passage of transit patrons and gathering functions do not detract from or conflict with one another.

The Project will provide within the northern Station entry plaza area sufficient space and utilities (electrical and water supply) to support community programming, including a sanitary sewer connection for temporary use by ganged, trailer-borne, portable restrooms. Such community programming will be determined at a later date and may include, but not be limited to, a farmers market and/or two to four food trucks. The maximum distance from any food truck location to restroom facilities shall be 100 feet. The plaza area's design will include built-in outdoor seating in the form of low walls in accordance with Section 4.5(d) of this Agreement, pedestrian scale lighting, landscaping, public art, and access to sun/natural lighting and to weather protection. The plaza area will be visually and physically connected to the bus zone on S. 200th Street by means of an ADA-compliant route, and vertical surfaces facing the public rights-of-way, such as retaining walls, will receive an architectural treatment and /or be softened with landscaping. The programming, operation, and maintenance of the open spaces provided by the Project will be governed by a future agreement as contemplated in accordance with Section 4.8.

7. Section 8.2 of the Agreement is hereby amended as follows:

A new Section 8.2(d) is added as follows:

(d) Urban Design Workshop. Sound Transit shall reimburse the City \$4,500 for an urban design workshop to explore opportunities for transit oriented development around the Angle Lake Station. The City shall invoice Sound Transit for the reimbursement amount. Invoices shall bear a purchase order number and be addressed to Sound Transit, Accounts Payable, 401 S. Jackson Street, Seattle, WA 98104.

8. Exhibits. The following exhibits to the Agreement are amended as follows:

Exhibit E is replaced in its entirety with Exhibit E-1. All references in the Agreement to Exhibit E shall be replaced with reference to Exhibit E-1. Exhibit E-1 includes properties acquired by Sound Transit since execution of the Agreement: King County Tax Parcel Nos. 344500-0095, 344500-0098, 344500-0040.

Exhibit L is revised to correct an inaccurate reference to the exhibit depicting the Light Rail Transit Way. Exhibit L is amended to read "The South Link Project is comprised of the property commonly known as that depicted on Exhibit K, the Light Rail Transit Way. A complete legal description of the South Link Project property is located in the City's project file."

A new Exhibit N (S445 Site Access Concurrence Letter dated August 2, 2013) is added, a copy of which is attached to this Second Amendment.

9. Effect of this Second Amendment. Unless expressly revised by this Second Amendment, all other terms and conditions of the Agreement shall remain in effect and unchanged.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Second Amendment by having its authorized representative affix her or his name in the appropriate space below.

**CENTRAL PUGET SOUND
REGIONAL TRANSIT AUTHORITY
(SOUND TRANSIT)**

THE CITY OF SEATAC

By: _____
Joan M. Earl, Chief Executive Officer

By: _____
Todd Cutts, City Manager

Date: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____
Joanna Valeri, Legal Counsel

By: _____
Mary Mirante Bartolo, City Attorney

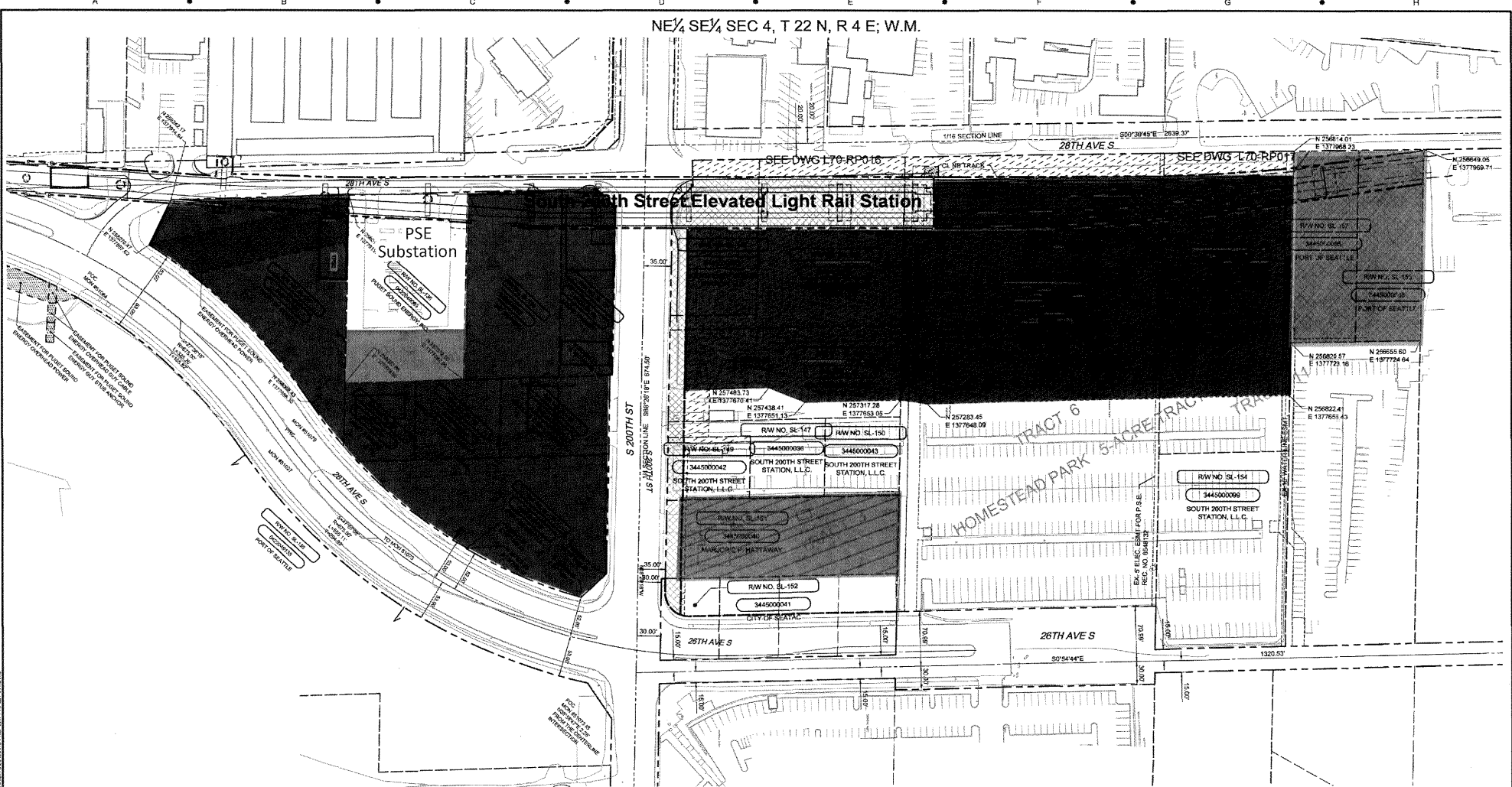
Authorized by Motion No. _____

Authorized by Resolution No. _____

EXHIBIT E-1

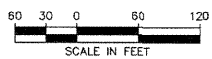
(Revised)

DWG. NO. 1
 L1SCALE
 1/4"=1'
 JSEEL
 -ATTORNEY
 -ENGINEER
 -PLANNING
 -SURVEYING
 -UTILITY
 -WATER
 -SEWER
 -GAS
 -ELECTRIC
 -TELEPHONE
 -CABLE
 -FIBER OPTIC
 -RADIO
 -TELEVISION
 -SATELLITE
 -OTHER



NE 1/4 SE 1/4 SEC 4, T 22 N, R 4 E; W.M.

NW 1/4 SE 1/4 SEC 4, T 22 N, R 4 E; W.M.



Shaded areas depict permanent and Interim parking location

| | | | | | | | |
|--------------|--|-------|--------------|------------|---|-------------|---------|
| Designed By: | | | Scale: | 1"=60' | LINK CONTRACT S440 Development Agreement EXHIBIT "E-1" Permanent & Interim Parking Location | Drawing No. | |
| Drawn By: | | | Filename: | | | Sheet No. | Rev No. |
| Checked By: | | | Contract No. | | | | |
| Approved By: | | | Date: | 05/30/2012 | | | |
| Submitted: | | Date: | Approved: | Date: | | | |

| | | | | | |
|-----|------|------|------|------|-----------|
| No. | Date | Des. | Chk. | App. | Revisions |
| | | | | | |

EXHIBIT L

(Revised)

EXHIBIT L

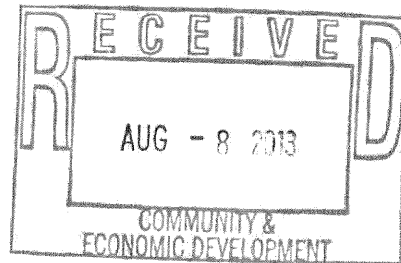
LEGAL DESCRIPTION FOR SOUTH LINK PROJECT

The South Link Project is comprised of the property commonly known as that depicted on Exhibit K, the Light Rail Transit Way. A complete legal description on the South Link Project property is located in the City's project file.

EXHIBIT N



August 2, 2013



Mr. Ali Shasti, Manager
Engineering Review Division
City of SeaTac
4800 S 188th Street
SeaTac, WA 98188-8605

**SUBJECT: Concurrence Letter: South 200th Link Extension
S445 Site Access Points & Signal**

Dear Mr. Shasti,

This letter is to address your request for updated information which we have prepared for incorporation into our upcoming design-build RFP solicitation for the proposed parking garage for the Angle Lake Station and to request your concurrence with the site access points and traffic signal location proposed herein. Attached are the relevant sections of the Project Requirements detailing this proposal:

- (1) Section 4.4.1—Perimeter Streets, describing configuration of the streets bounding the site, including the City's concept for a potential future roundabout at 28th Avenue S and 26th Avenue S.
- (2) Section 4.6.2—Vehicular Access & Traffic Considerations, describing and illustrating approximate proposed site access connection points to the three perimeter streets. This also shows the location of existing and proposed traffic signals.

Sound Transit and the City acknowledge that the proposed traffic signal must be operational as a condition for issuing a Certificate of Occupancy for the Angle Lake Station parking garage.

We would appreciate the City's review of this information and concurrence with the documented approach by August 7, 2013.

CHAIR

Pat McCarthy
Pierce County Executive

VICE CHAIRS

Julia Patterson
King County Councilmember

Paul Roberts
Everett Councilmember

BOARD MEMBERS

Claudia Balducci
Bellevue Councilmember

Fred Butler
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Seattle Councilmember

Dow Constantine
King County Executive

Dave Earling
Edmonds Mayor

Dave Enslow
Sumner Mayor

John Marchione
Redmond Mayor

Joe McDermott
King County Councilmember

Mike McGinn
Seattle Mayor

Mary Moss
Lakewood Councilmember

Lynn Peterson
*Washington State Secretary of
Transportation*

Larry Phillips
King County Councilmember

Marilyn Strickland
Tacoma Mayor

Peter von Reichbauer
King County Councilmember

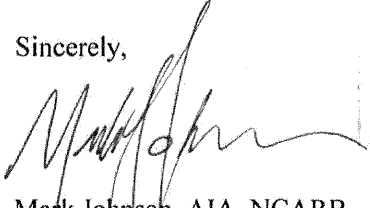
CHIEF EXECUTIVE OFFICER

Joni Earl

Mr. Ali Shasti
Page 2,
August 2, 2013

If you have any additional questions please contact me at (206) 398-5192.

Sincerely,



Mark Johnson, AIA, NCARB
Senior Project Manager
DECM

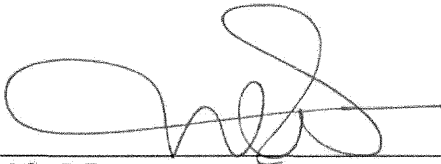


Miles Haupt
Project Director
DECM

Concurrence:

City of SeaTac

By:



Ali Shasti, M.S., P.E.
Engineering Review Division Manager
Community & Economic Development
City of SeaTac

AS, 8-8-13
Date

Attached:

- Project Requirements for perimeter streets, site access points, and traffic signal location

Cc: Miles Haupt
Rod Kempkes
Jon Mihkels
Kent Ng
Doc Control

Attachment 1

Note: Below are excerpts from the current Project Requirements for the S445 South Link Parking Garage and Station Plaza Project dated August 2013 as it relates to perimeter streets, vehicle access, and traffic movements.

4.4.1 Perimeter Streets

See Sound Transit's amended Development Agreement with the City of SeaTac for perimeter street access requirements. Also see Section 4.6.2 for related driveway requirements.

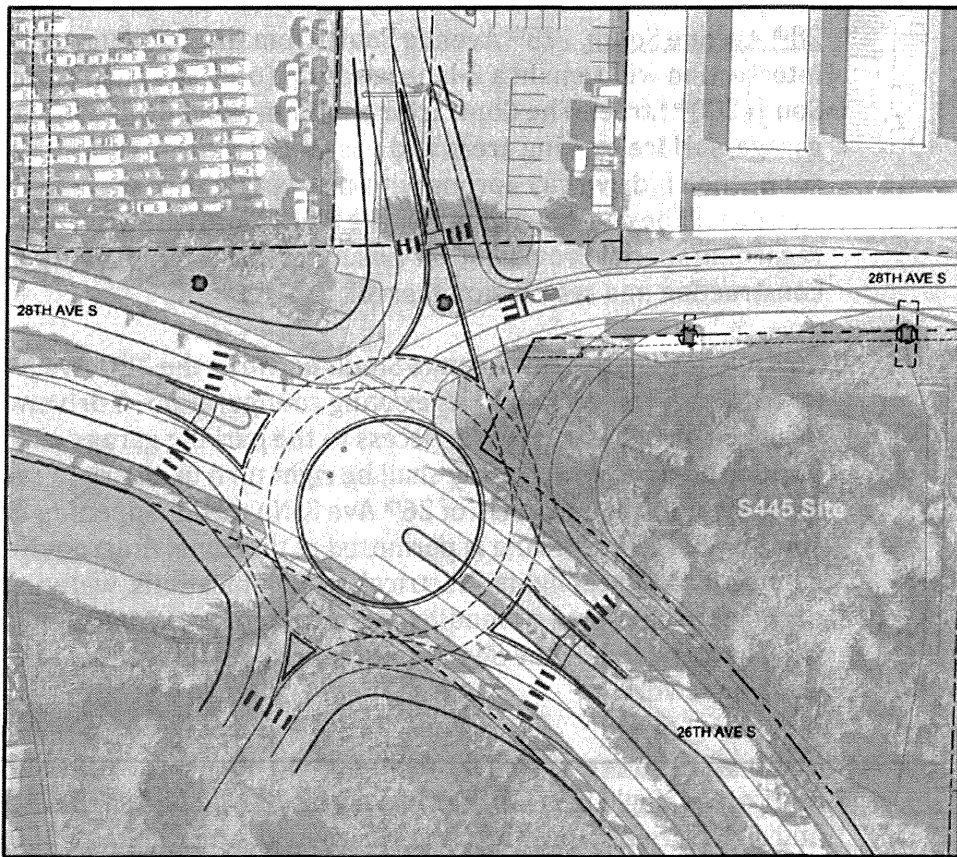
28th Avenue South. 28th Avenue South from the 26th Avenue South intersection will remain a 2-lane roadway (one lane each direction) north of South 200th Street. The Contractor shall construct driveways for the parking garage, surface parking areas and passenger pick-up drop-off area; driveway connections (driveway aprons within street right-of-way) to the public streets will be constructed under the S447 Contract. See Section 2.4.2 regarding special provisions on closure of 28th Avenue South during construction and restoration thereof.

26th Avenue South. 26th Avenue South between the 28th Ave S and 200th Street South will remain in its existing configuration. A driveway shall be designed and constructed for access to the parking garage and surface parking areas. This driveway shall be right turn in and right turn out only from the northbound lanes of 26th Ave S. No median opening for a southbound left turn lane is permitted at this time. Any required utility connections (street lights, electrical, communications, water, sewer, drainage, traffic, etc.) or modifications thereto required along 26th Ave S shall be provided by the S445 Contractor, including any necessary street work or rework.

South 200th Street. South 200th Street will be reconstructed under the S447 contract. A single mid-block driveway is allowed and shall be right turn in and right turn out only from the westbound lanes of South 200th Street. No more than one curb cut on South 200th Street is allowed for site access. The new mid-block driveway curb-cut (to the ROW line) and utility connections (water, sanitary sewer, and drainage) will be provided for the proposed parking garage, retail building and future development site by the S447 contract. The S447 Contractor shall design and build curb and gutter, sidewalks, lighting, and landscaping along South 200th Street. Utility connections (street lights, electrical, communications, water, sewer,

drainage, traffic, etc.) required along South 200th Street shall be provided by the S447 Contractor, including any necessary street work. Coordinate driveway, utility and drainage connections, sidewalk, and streetscape elements with the S447 final designer and contractor. Sound Transit shall have the right to direct design and work elements along the north side of South 200th Street.

Roundabout at 26th Ave S / 28th Ave S. The site design shall not preclude the City's development of a future roundabout at the intersection of 26th Avenue South and 28th Avenue South based on the following conceptual layout as provided by the City of SeaTac. This layout will be attached as an exhibit to an upcoming amendment to the Development Agreement. The design may utilize this area for parking, but shall not locate new utilities or structures in this potential ROW area.



City of SeaTac Concept for Roundabout at 28th Ave S / 26th Ave S

Also, see Section 4.6.2 regarding required vehicular access into and from the S445 site from and onto these perimeter streets and traffic controls associated therewith.

4.6.2

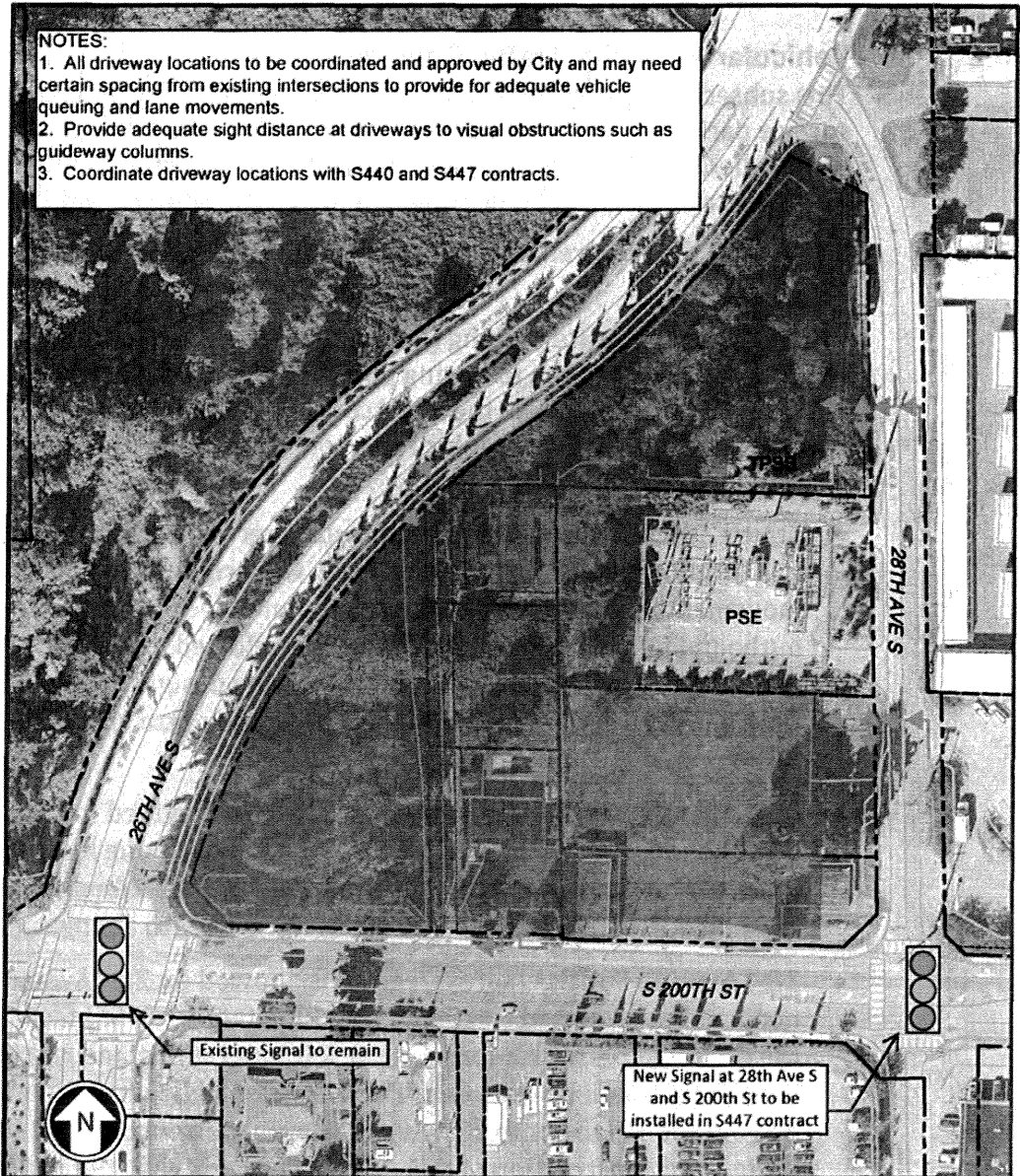
Vehicular Access & Traffic Considerations

This subsection covers the vehicular access required for the parking garage, surface parking, and passenger pick-up and drop-off. A new traffic signal will be installed at the South 200th Street and 28th Avenue South intersection. This new traffic signal will be provided under the S440 or S447 contract.

Coordinate the requirements and work in this section with that in Section 4.4.1.

Vehicular access to site parking (for garage and surface parking facilities) shall be comprised of the following points based upon discussions to date with the City of SeaTac. See the Site Access Plan in the Contract Drawings in Volume 3, Item 3.01 for a graphic representation of the following descriptions.

- **South 200th Street** - A single vehicular ingress/egress point to the site will be allowed on South 200th Street. Only right in and right out movements shall be provided. One inbound lane to the site and one outbound lane onto South 200th Street is allowed. Contractor shall coordinate access with S447 contract during design and construction. Only one curb cut is allowed to the site off the north side of South 200th Street.
- **26th Avenue South** - Ingress/egress shall be provided to only the northbound lanes of 26th Avenue South in at least one location. Only right in / right out movements are allowed. Provide one inbound lane to the site and one outbound lane onto 26th Avenue South at any such location.
- **28th Avenue South** - Ingress/egress is allowed on 28th Avenue South north of the proposed traction power substation (TPSS) facility (north of the existing PSE substation). Left in, left out, right in and right out movements shall be provided. This access shall be one inbound lane and one outbound lane onto 28th Avenue South. Contractor shall coordinate design and construction of this driveway access with the S440 contract.
- **Passenger Pick-Up and Drop-Off (28th Avenue South)** - Vehicle ingress/egress shall be provided on 28th Avenue South, immediately south of the existing PSE substation for passenger pick-up and drop-off for the Angle Lake Station. Left in, left out, right in and right out movements shall be provided. This access shall be one inbound lane and one outbound lane onto 28th Avenue South. Contractor shall coordinate design and construction of this driveway access with the S440 contract. Possible access to the parking facility is allowed with Sound Transit approval. Vehicles using this driveway may include usual private passenger vehicles, para-transit vans, food trucks, and Sound Transit or City of SeaTac operation & maintenance vehicles.



Vehicular Access for S445 Site

Provision shall be made for permitted vehicles to have access to the plaza and Angle Lake Station entry. Designated entry point to the plaza with removable bollards at non-curbed paving areas (for ADA or other pedestrian access) shall be provided. Plaza paving shall accommodate vehicle loading. Provide space for a minimum of (2) two and a maximum of (4) four food vending trucks on or adjacent to the plaza area.

Sound Transit's TPSS and signal house site located on the north side of the PSE substation next to 28th Avenue South requires special access through the site to its gate for pick-up trucks and SU-sized service vehicles. The design of driveway route(s) on site shall accommodate those vehicles. Further, two (2)

assigned parking spaces for Sound Transit pick-up trucks shall be provided adjacent to and outside the gate to the TPSS site. Coordinate with Sound Transit on this driveway access for the TPSS and the two assigned parking spaces.

This configuration of vehicular access for the site is consistent with the findings of the previously completed traffic study accepted by the City of SeaTac. See provided prescriptive and reference documentation (Volume 3, Item 05) for traffic movements that conform to the DA and environmental documentation.

The Contractor's design shall be consistent with the existing traffic study (Traffic Impact Study by Huitt-Zollars, dated August 22, 2012), a traffic study which the City of SeaTac may perform related to extending 26th Avenue South southward to 24th Avenue at South 208th Street (timing unknown), the DA as amended, and other environmental documentation. If required, the Contractor shall provide work and documentation sufficient to amend environmental and entitlement documents and gain approval thereof from the City of SeaTac for proposed traffic movements and vehicular access onto public streets.

SeaTac City Council

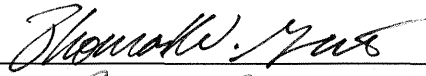
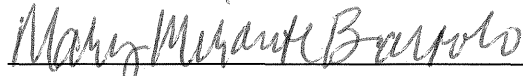

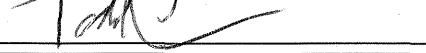
REQUEST FOR COUNCIL ACTION

Department Prepared by: Public Works

Agenda Bill #: 3539

TITLE: A Motion authorizing the City Manager to execute a contract with CleanScapes, Inc. for Comprehensive Garbage, Recyclables and Compostables Collection.

September 27, 2013

| |
|--|
| <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Info. Only <input type="checkbox"/> Other |
| Date Council Action Requested: <u>RCM 10/8/13</u> |
| Ord/Res Exhibits: _____ |
| Review Dates: <u>Council Retreat 2/23/13, CSS 9/10/13, RCM 9/24/13</u> |
| Prepared By: <u>Trudy Olson, Resource Conservation/Neighborhood Programs Coordinator</u> |
| Director: <u></u> City Attorney: <u></u> |
| Finance: <u></u> BARS #: <u>001.341.43.00.000</u> |
| City Manager: <u></u> Applicable Fund Name: <u>General (001)</u> |

SUMMARY: This Motion proposes that the City enter into a seven year contract with CleanScapes, Inc. for solid waste collection services within the entire incorporated City. These services include: residential and commercial garbage, recycling, and compostables collection, and the processing and marketing of collected recyclables and compostables.

DISCUSSION / ANALYSIS / ISSUES: The current solid waste collection contract with Allied Waste/Republic Services expires on May 31, 2014. With Council concurrence an open, competitive procurement process was pursued. A Request for Proposals was released on April 1, 2013. Proposals were received on June 3, 2013 from three proponents: Allied Waste/Republic Services, Inc., CleanScapes, Inc., and Waste Management of Washington, Inc.

Proposals were evaluated in two phases: (1) a review and evaluation of proposal elements other than price, including reference checks; and (2) review of price proposals and scoring of the price components. At the conclusion of the evaluation process, proponents were rated and scored. CleanScapes, Inc. was selected as the highest-rated proponent having scored highest in both phases.

The contract was finalized to include enhancements proposed by CleanScapes, resulting in the attached contract. The new contract offers service improvements and rate savings over the City's current contract. Additionally, the new contract will allow SeaTac to enhance its recycling program and increase diversion from the landfill.

The table below highlights the service and rate changes.

| <i>SF = single family</i> | Current | Proposed |
|--|--|--|
| SF Containers | Customer owned or company rented. | Company to provide – no charge. |
| SF Recyclables | Limited. | Expanded. |
| SF Spring residential curbside cleanup | None. | 1 cubic yard per year – no charge. |
| SF Storm clean up | None. | No charge for subscribers. City pays \$10,603 for all single family residents. |
| Bulky items on-call | \$66 | \$20 |
| SF 32-gal rate | \$17.85 customer owned can \$19.22 company cart | \$17.75 can/cart includes every-other-week compostables and company cart. |
| SF Compostables | \$10 | Embedded. |

| | | |
|------------------------------|---|---|
| Commercial | Recycling requires contract at additional fees. Multifamily already has embedded recycling at slightly higher cost. | Same current rates, but with embedded recycling at no additional cost. Multifamily rates will go down to be the same as commercial are now. |
| Drop box (Comm./Multifamily) | \$89 | \$104. Nominal increase. Recycling embedded. |
| City Franchise Fee | \$70,592.16 | \$120,000 (estimate) |

As soon as the contract is executed, CleanScapes will begin the transition which covers customer billing, equipment, routing and customer service. This is an extensive effort and it is anticipated that there is sufficient time between now and June 1, 2014 for a successful transition.

Per Council direction at the 9/10/13 CSS, all references to mandatory collection have been removed from the contract. If Council at a future time decides to revise City ordinance to initiate mandatory collection, it will require the contract to be renegotiated and subsequent Council approved amendment.

To address concerns raised by several Councilmembers, Section 2.1.28 titled "Hiring Preference and Prevailing Wage" has been added.

To address concerns raised by several Councilmembers at the 9/24/13 RCM, Section 2.1.28 has additional displaced worker language added to the contract.

RECOMMENDATION(S): It is recommended the Motion be carried.

FISCAL IMPACT: Upon executing the contract, CleanScapes will provide \$30,000 to the City to cover our consultant and staff costs incurred. In addition, the annual franchise fee received will increase by approximately \$49,400. This is intended to cover costs to the City associated with contract administration and matching funds for potential grants.

ALTERNATIVE(S): 1) Request additional refinements to the contract. However, that could increase rates and would negatively impact the transition. 2) Reject all proposals and re-issue the Request for Proposals. However, there are no other viable companies that would respond. Re-bidding would extend the consultant contract and expenses, and would adversely impact the transition.

ATTACHMENTS: Comprehensive Garbage, Recyclables and Compostables Collection Agreement

9/27/13 DRAFT

**COMPREHENSIVE GARBAGE, RECYCLABLES AND
COMPOSTABLES COLLECTION CONTRACT**

**City of SeaTac
and
CleanScapes, Inc.**

June 1, 2014 – May 31, 2021

COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES COLLECTION CONTRACT

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- Attachment A: Service Area Map
- Attachment B: Contractor Initial Rates
- Attachment C: List of Recyclables
- Attachment D: Rate Modification Example

This solid waste collection contract (“Contract”) is entered into by and between the City of SeaTac, a municipal corporation of the State of Washington (“City”), and CleanScapes, Inc., a Washington corporation (“Contractor”) to provide for collection of Garbage, Compostables, and Recyclables from Single-Family Residences, Multi-Family Complexes and Commercial Customers located within the City Service Area. (Each capitalized term is hereinafter defined.)

The parties, in consideration of the promises, representations and warranties contained herein, agree as follows:

RECITALS

WHEREAS, the City has completed a competitive process to secure this new solid waste collection contract; and

WHEREAS, the Contractor represents that it has the experience, resources and expertise necessary to perform the contract services; and

WHEREAS, the City desires to enter into this contract with the Contractor for the Garbage, Recyclables and Compostables collection services;

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises herein contained, the City and Contractor do hereby agree as follows:

DEFINITIONS

Change in Control: Change in Control means any sale, merger, policy of assets, the issuance of new shares, any change in the voting rights of existing shareholders, or other change in ownership which transfers the 25% or more of the beneficial interest therein from one entity to another. Provided, however, that intracompany transfers, such as transfers between different subsidiaries or branches of the parent corporation of the Contractor, or transfers to corporations, limited partnerships, or any other entity owned or controlled by the Contractor upon the effective date of this contract shall not constitute a change in control.

City: The word “City” means the City of SeaTac, King County, Washington. As used in the Contract, it includes the designated official of the City holding the office of the City’s Director of Public Works or her/his designated representative.

City Service Area: The initial City Service Area is delineated in the service area map provided as Attachment A to this Contract.

Commercial Customer: The term “Commercial Customer” means non-residential Customers including businesses, institutions, governmental agencies and all other users of commercial-type Garbage collection services.

Commercial Recyclables: The term “Commercial Recyclables” means the materials designated as being part of the Commercial Recycling collection program, as listed in Attachment C.

Compostables: The word “Compostables” means Yard Debris and Food Scraps separately or combined.

Compostables Cart: The term “Compostables Cart” means a Contractor-provided 32/35-, 64- or 96-gallon wheeled cart provided to Compostables collection Customers for the purpose of containing and collecting Compostables.

Container: The word “Container” means any Micro-Can, Cart, Detachable Container or Drop-Box Container owned and provided by the Contractor, as well as Garbage Cans owned and used by Customers for Extra Units.

Contractor: The word “Contractor” means CleanScapes, Inc., which has contracted with the City to collect and dispose of Garbage and to collect, process, market and transport Recyclables and Compostables.

Curb or Curbside: The words “Curb” or “Curbside” mean on the homeowners' property, within five (5) feet of the Public Street or Private Road without blocking sidewalks, driveways or on-street parking. If extraordinary circumstances preclude such a location, Curbside shall be considered a placement suitable to the resident, convenient to the Contractor’s equipment, and mutually agreed to by the City and Contractor.

Customer: The word “Customer” means all users of solid waste services, including property owners, managers and tenants.

Detachable Container: The term “Detachable Container” means a watertight metal or plastic Container equipped with a tight-fitting cover, capable of being mechanically unloaded into a collection vehicle, and that is not less than one (1) cubic yard or greater than eight (8) cubic yards in capacity.

Drop-Box Container: The term “Drop-Box Container” means an all-metal Container with ten (10) cubic yards or more capacity that is loaded onto a specialized collection vehicle, transported to a disposal or recycling site, emptied and transported back to the Customer’s site.

Extra Unit: The term “Extra Unit” means excess material which does not fit in the Customer’s primary Container. In the case of Can/Cart services, An Extra Unit shall be 32-gallons in volume, and may be loose or contained in either a plastic bag or Garbage Can. In the case of Garbage Containers one cubic yard or more in capacity, and Extra Unit is one cubic yard.

Food Scraps: The term “Food Scraps” means all Compostable pre- and post-consumer organic wastes placed in a Compostables Cart, such as whole or partial pieces of produce, meats, bones, cheese, bread, cereals, coffee grounds or egg shells, and food-soiled paper such as paper napkins, paper towels, paper plates, coffee filters, paper take-out boxes, pizza boxes, or other paper or biodegradable products specifically accepted by the Contractor’s selected composting site. Food Scraps shall not include large dead animals, plastics, diapers, cat litter, liquid wastes, pet wastes or other materials prohibited by the selected composting facility. The range of materials handled by the Compostables collection program may be changed from time to time upon the approval of the City to reflect those materials allowed by the Seattle-King County Health Department for the frequency of collection provided by the Contractor.

Franchise Fee: The term “Franchise Fee” means a City-defined percentage tax that is included in Customer rates charged by the Contractor, with receipts collected from Customers on the City’s behalf by the Contractor and remitted to the City as directed in this Contract. The Franchise Fee is separate and distinct from any itemized utility, sales or other taxes that may be assessed from time to time.

Garbage: The word “Garbage” means all putrescible and nonputrescible solid and semi-solid wastes, including, but not limited to, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, and discarded commodities that are placed by Customers of the Contractor in appropriate bins, bags, cans or other receptacles for collection and disposal by the Contractor. The term Garbage shall not include Hazardous Wastes, Special Wastes, Source-Separated Recyclables or Compostables.

Garbage Can: The term “Garbage Can” means a City-approved Container that is a water-tight galvanized sheet-metal or sturdy plastic Container not exceeding four (4) cubic feet or thirty-two (32) gallons in capacity; fitted with two (2) sturdy looped handles, one on each side; and fitted with a tight cover equipped with a handle. All Containers shall be rodent and insect proof.

Garbage Cart: The term “Garbage Cart” means a Contractor-provided 20/21-, 32/35-, 45-, 64- or 96-gallon wheeled cart suitable for household deposit, storage and Curbside placement and collection of Garbage. Garbage Carts shall be rodent and insect proof and kept in sanitary condition at all times.

Hazardous Waste: The term “Hazardous Waste” means any substance that is:

- A. Defined as hazardous by 40 C.F.R. Part 261 and regulated as Hazardous Waste by the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act (“RCRA”) of 1976, 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments (“HSWA”) of 1984; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; or any other federal statute or regulation governing the treatment, storage, handling or disposal of waste imposing special handling or disposal requirements similar to those required by Subtitle C of RCRA.
- B. Defined as dangerous or extremely hazardous by Chapter 173-303 WAC and regulated as dangerous waste or extremely Hazardous Waste by the Washington State Department of Ecology under the State Hazardous Waste Management Act, Chapter 70.105 RCW, or any other Washington State statute or regulation governing the treatment, storage, handling or disposal of wastes and imposing special handling requirements similar to those required by Chapter 70.105 RCW.

King County Disposal System: The term “King County Disposal System” means the real property owned, leased or controlled by the King County Solid Waste Division, King County, Washington for the disposal of Garbage, or such other site as may be authorized by the then current King County Comprehensive Solid Waste Management Plan.

Micro-Can: The term “Micro-Can” means a water-tight plastic Container not exceeding ten gallons in capacity; fitted with two sturdy handles, one on each side; and fitted with a tight cover.

Mixed Paper: The term “Mixed Paper” means magazines, junk mail, phone books, bond or ledger grade paper, cardboard, paperback books, paperboard packaging, paper cups and other fiber-based materials meeting industry standards. Tissue paper, paper towels, food-contaminated paper or paper packaging combined with plastic, wax or foil are excluded from the definition of Mixed Paper.

Mixed-Use Building: The term “Mixed-Use Building” means a structure inhabited by both Residential and Commercial Customers.

Multi-Family Complex: The term “Multi-Family Complex” means a multiple-unit Residence with five or more attached or unattached dwellings billed collectively for collection service.

Private Road: The term “Private Road” means a privately owned and maintained way that allows for access by a service truck and that serves multiple Residences.

Public Street: The term “Public Street” means a public right-of-way used for public travel, including public alleys.

Recycling: The word “Recycling” means pertaining to the preparation, collection, process and marketing of Recyclables.

Recycling Cart: The term “Recycling Cart” means a Contractor-provided 35-, 64- or 96-gallon wheeled cart suitable for household collection, storage and Curbside placement of Source-Separated Recyclables.

Recycling Container: The term “Recycling Container” means a Contractor-provided Container suitable for on-site collection, storage and placement of Source-Separated Recyclables at Multi-Family Complexes and Commercial Customer locations.

Residence/Residential: The words “Residence” or “Residential” mean a living space, with a kitchen, individually rented, leased or owned.

Residential Recyclables: The term “Residential Recyclables” means the materials designated as being part of the Residential Recycling collection program, as listed in Attachment C.

Scrap Metals: The term “Scrap Metals” means ferrous and non-ferrous metals, not to exceed two (2) feet in any direction and thirty-five (35) pounds in weight per piece. Scrap metal shall include small appliances such as microwave ovens and toasters provided that the appliances meet size and weight requirements.

Single-Family Residence: The term “Single-Family Residence” means all one-unit houses, duplexes, triplexes and 4-plexes that are billed for collection service individually and located on a Public Street or Private Road.

Source-Separated: The term “Source-Separated” means certain reclaimable materials that are separated from Garbage by the generator for recycling or reuse, including, but not limited to Recyclables, Compostables and other materials.

Special Waste: The term “Special Waste” means polychlorinated biphenyl (“PCB”) wastes, industrial process wastes, asbestos containing materials, petroleum contaminated soils, treated/de-characterized wastes, incinerator ash, medical wastes, demolition debris and other materials requiring special handling in accordance with applicable federal, state, county or local laws or regulations.

Yard Debris: The term “Yard Debris” means leaves, grass and clippings of woody, as well as fleshy, plants. Unflocked, undecorated holiday trees are acceptable. Materials larger than four (4) inches in diameter or four (4) feet in length are excluded. Bundles of Yard Debris up to two feet by two feet by four feet (2’x2’x4’) in dimension shall be allowed and shall be secured by degradable string or twine, not nylon or other synthetic materials.

WUTC: The term WUTC means the Washington Utilities and Transportation Commission.

COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES COLLECTION AGREEMENT

This agreement (hereafter, "Contract") is made and entered into this _____ day of August 2013, by and between the City of SeaTac, a municipal corporation (hereafter, "City"), and CleanScapes, Inc., a Washington [corporation/partnership] (hereafter, "Contractor").

1. TERM OF CONTRACT

The term of this Contract is seven years, starting June 1, 2014, and expiring May 31, 2021. The City may, at its sole option, extend the agreement for up to two (2) extensions, each of which shall not exceed two (2) years in duration. Any such extension shall be under the terms and conditions of this Contract, as amended by the City and Contractor from time to time. To exercise its option to extend this Contract, notice shall be given by the City to the Contractor no less than ninety (90) days prior to the expiration of the Contract term or the expiration of a previous extension.

2. SCOPE OF WORK

2.1 General Collection System Requirements

The Contractor shall collect, transfer and dispose of Garbage, Recyclables and Compostables according to the terms and conditions of this agreement; provided, that the Contractor shall not knowingly or as a result of gross negligence collect or dispose of Hazardous Waste or Special Waste as those terms are defined herein. The Contractor shall indemnify the City for any City damages cause by violation of this Section. To the extent identifiable, Customers shall remain responsible for any Hazardous Waste or Special Waste inadvertently collected and identified by Contractor.

2.1.1 City Service Area

The Contractor shall provide all services pursuant to this Contract throughout the entire City Service Area.

2.1.2 Annexation

If additional territory is added to the City through annexation or other means, the City and Contractor shall negotiate in good faith the terms and conditions of extending Contract services to that area, upon completion of the existing service provider's conversion franchise term.

2.1.3 Unimproved Public Streets and Private Roads

Residences located in an area that does not allow safe access, turn-around or clearance for service vehicles will be provided service if materials are

set out adjacent to the nearest Public Street or Private Road that provides safe access.

In the event that the Contractor believes that a Private Road cannot be safely negotiated or that providing walk-in service for Single-Family Customers is impractical due to distance or unsafe conditions, the Contractor shall work with the Customer to negotiate the nearest safe and mutually convenient pick up location.

If the Contractor believes that there is a probability of Private Road damage, the Contractor shall inform the respective Customers. Contractor may require a damage waiver agreement or decline to provide service on those Private Roads. The City shall review and approve the damage waiver form prior to its use with the Contractor's Customers.

2.1.4 Hours/Days of Operation

All regular collections from Residential Customers shall be made on Monday through Friday, between the hours of 7:00 a.m. and 5:00 p.m. The Contractor may perform Commercial collections between the hours of 2:00 a.m. and 5:00 p.m., provided such services do not take place in areas adjacent to Residential dwellings. Collection on Port of Seattle property that is not adjacent to Residential dwellings may occur 24 hours a day. The City may authorize an extension of hours or days to accommodate specific Customers or sections of routes. Saturday and/or Sunday collection is allowed to the extent consistent with the needs of Commercial Customers, special bulky waste collections, make-up collections, and holiday and inclement weather schedules, provided that Residential areas shall not be impacted by Contractor operations during those days. City code noise restrictions, as amended from time to time, shall be applicable to collection services provided under this contract.

2.1.5 Employee Conduct

The Contractor's employees collecting Garbage, Recyclables and Compostables shall at all times be courteous, refrain from loud, inappropriate or obscene language, exercise due care, perform their work without delay, minimize noise, and avoid damage to public or private property. If on private property, employees shall follow the regular pedestrian walkways and paths, returning to the street after replacing empty Containers. Employees shall not trespass or loiter, cross flower beds, hedges or property of adjoining premises, or meddle with property that does not concern them or their task at hand. While performing work under the Contract, employees shall wear a professional and presentable uniform with a company emblem visible to the average observer.

If any person employed by the Contractor to perform collection services is, in the opinion of the City, incompetent, disorderly or otherwise unsatisfactory, the City shall promptly document the incompetent, disorderly or unsatisfactory conduct in writing and transmit the documentation to the Contractor with a demand that such conduct be corrected. The Contractor shall investigate any written complaint from the City regarding any unsatisfactory performance by any of its workers. If the offending conduct is repeated, the City may require that the person be removed from all performance of additional work under this Contract. Removal shall be addressed by the Contractor immediately, and related documentation shall be provided to the City.

2.1.6 Disabled Persons Service

The Contractor shall offer carry-out service for Garbage, Recyclables and Yard Debris to households lacking the ability to place containers at the Curb, at no additional charge. The Contractor shall use qualification criteria that are fair, consistent with City utility policies and meet the needs of the City's disabled residents. These criteria shall comply with all local, state and federal regulations, and shall be subject to City review and approval prior to program implementation.

2.1.7 Holiday Schedules

The Contractor shall observe the same holiday schedule as do King County Transfer Stations (New Years Day, Thanksgiving Day, and Christmas Day).

When the day of regular collection is a King County Transfer Station holiday, the Contractor shall reschedule the remainder of the week of regular collection to the next succeeding workday, which shall include Saturdays. The Contractor shall not collect Residential Garbage, Recyclables or Compostables earlier than the regular collection day due to a holiday. Commercial collections shall be made one day early only with the consent of the Commercial Customer.

2.1.8 Inclement Weather and Other Service Disruptions

When weather conditions are such that continued operation would result in danger to the Contractor's staff, area residents or property, the Contractor shall collect only in areas that do not pose a danger. The Contractor shall notify the City of its collection plans and outcomes for each day that severe inclement weather is experienced as soon as practical that same business day.

The Contractor shall collect Garbage, Recyclables and Compostables from Customers with interrupted service on the first day that regular service to a Customer resumes and shall collect reasonable accumulated volumes of

materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 7:00 pm and/or on Saturdays following disruptions due to weather in order to finish collection routes.

If successive weather events occur on the same scheduled collection day(s) two collection cycles in a row for a single collection day (i.e., Tuesday Customers), an additional collection will be made on the next possible business day that same week, (i.e. not waiting for the regularly scheduled collection day for the missed area.) If multiple days are missed due to inclement weather in multiple weeks, collections shall be made on the next regularly scheduled collection day. In the event of successive service disruptions impacting entire neighborhoods, the Contractor shall provide temporary Residential Garbage collection sites using driver-staffed Drop Box Containers or other suitable equipment, with no extra charge assessed for such temporary service.

The inclement weather/disruption in service requirements in the preceding paragraph may be changed upon mutual written agreement of the Contractor and City at any time during the term of this Contract to better serve Customers.

All holiday and weather policies shall be included in program information provided to customers. On each inclement weather day, the Contractor shall release notices to the local newspapers and radio stations (including the *Seattle Times* newspaper and KING AM, KIRO, and KOMO radio stations) and the Regional Public Information Network (RPIN) notifying residents of the modification to the collection schedule. The Contractor shall use automated dialing services to inform Customers at the route level about service changes, provided that Customers shall be provided the option of opting out of automated calls.

When closure of roadways providing access or other non-weather related events beyond the Contractor's control prevent timely collection on the scheduled day, the Contractor shall make collections on the first day that regular service to a Customer resumes, collect reasonable accumulated volumes of materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 7:00 pm and/or on Saturdays following such disruptions in order to finish collection routes. Delayed or interrupted collections as described in this Section are not considered service failures for purposes of Section 4.1.

2.1.9 Suspending Collection from Problem Customers

The City and Contractor acknowledge that, from time to time, some Customers may cause disruptions or conflicts that make continued service to that Customer unreasonable. Those disruptions or conflicts may include, but not be limited to, repeated damage to Contractor-owned Containers, repeated refusal to position Garbage, Recycling and Compostables Carts properly, repeated suspect claims of timely set-out followed by demands for return collection at no charge, repeated claims of Contractor damage to a Customer's property, or other such problems.

The Contractor shall make every reasonable effort to provide service to those problem Customers. However, the Contractor may deny or discontinue service to a problem Customer if reasonable efforts to accommodate the Customer and to provide services fail. If the Customer submits a written letter to the City appealing the Contractor decision, the City may, at its discretion, intervene in the dispute. In this event, the decision of the City shall be final. The City may also require the denial or discontinuance of service to any Customer who is abusing the service or is determined to be ineligible

2.1.10 Missed Collections

If Garbage, Recyclables or Compostables Containers are set out inappropriately, improperly prepared or contaminated with unacceptable materials, the Contractor shall place in a prominent location a notification tag that identifies the specific problem(s) and reason(s) for rejecting the materials for collection. Failure to provide proper notification to Customers of the reason for rejecting materials for collection shall be considered a missed collection and/or subject to performance fees due to lack of proper Customer notification.

The failure of the Contractor to collect Garbage, Recyclables or Compostables that has been set out by a Customer in the proper manner shall be considered a missed pick-up, and the Contractor shall collect the materials from the Customer on the same day if notified by 3:00 p.m. Monday through Friday, otherwise the collection shall occur on the next business day. The Contractor shall maintain an electronic database of all missed pick-ups (whether reported by telephone call or e-mail) and Contractor shall routinely note and provide corrective action to those Customers who experience repeated missed pick-ups. Such records shall be made available for inspection upon request by the City and shall be included with monthly reports unless otherwise directed by the City.

In the event that the Contractor fails to collect the missed pick-up within twenty-four (24) hours of receipt of notice (or on Monday in the event of notification after 5:00 p.m. on Friday), the Contractor shall collect the materials that day and shall be subject to performance fees. If the Contractor is requested by the Customer to make a return trip due to no

fault of the Contractor, the Contractor shall be permitted to charge the Customer an additional fee for this service (a “return trip fee” at the rate specified in Attachment B), provided the Contractor notifies the Customer of this charge in advance.

2.1.11 Same Day Collection

Garbage, Recyclables and Compostables collection shall occur on the same regularly scheduled day of the week for Single-Family Residence Customers. The collection of Garbage, Recyclables and Compostables from Multi-Family Complexes and Commercial Customers need not be scheduled on the same day.

2.1.12 Requirement to Recycle and Compost

The Contractor shall recycle or compost all loads of Source-Separated Recyclables and Compostables collected, unless express prior written permission is provided by the City. The disposal of contaminants separated during processing is acceptable to the extent that it is unavoidable and consistent with industry standards. The Contractor’s residuals from the overall processing operations at the facility (including both City and non-City material) shall not exceed 5%. If more than 5% of inbound materials are found to be contaminants, the Contractor will develop a plan to determine which Customers are adding contaminants in their Recyclables and then provide a public education program to remedy the situation.

The Contractor shall process Recyclables in such a manner as to meet market specifications and to minimize out-throws and prohibitives in baled material. The Contractor shall remove 90% or more of the inbound contaminants for disposal.

City staff shall be provided access to the Contractor’s processing facilities at any time for the purposes of periodically monitoring the facilities’ performance under this Section. Monitoring may include, but not limited to, taking samples of unprocessed Recyclables, breaking selected bales and measuring the out-throws and prohibitives by weight, taking samples of processed glass and metals, reviewing actual markets and use of processed materials, and other activities to ensure the Contractor’s performance under this Section and to ensure that misdirected Recyclables and contamination are minimized.

Obvious contaminants included with either Source-Separated Recyclables or Compostables shall not be collected, and shall be left in the Customer’s Container with a prominently displayed notification tag (per Section 2.1.10) explaining the reason for rejection.

2.1.13 Routing, Notification and Approval

The Contractor shall indicate, on a detailed map acceptable to the City, the day of the week Garbage, Recyclables and Compostables shall be collected from each Single-Family Residence.

The Contractor may change the day of collection by giving notice at least thirty (30) days prior to the effective date of the proposed change and must obtain advance written approval from the City. On the City's approval, the Contractor shall provide affected Customers with at least fourteen (14) days written notice of pending changes of collection day. The Contractor shall obtain the prior written approval from the City of the notice to be given to the Customer, and such approval shall not be unreasonably withheld.

2.1.14 Equipment Age/Condition

The Contractor shall use vehicles that meet model year 2010 or later federal emissions standards. Back-up vehicles used fewer than thirty (30) operating days per calendar year shall not be subject to the age and emission standards that apply to regularly-used vehicles, but shall be presentable, in safe working order and shall be subject to all other conditions of this Section. The accumulated annual use of individual back-up vehicles shall be reported in the Contractor's monthly report.

All vehicles used in the performance of this Contract shall be maintained in a clean and sanitary manner, and shall be thoroughly washed at least once each week and shall be repainted as necessary.

All collection equipment shall have appropriate safety markings, including all highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with current statutes, rules and regulations. Equipment shall be maintained in good condition at all times. All parts and systems of the collection vehicles shall operate properly and be maintained in a condition satisfactory to the City. The Contractor shall maintain collection vehicles to ensure that no liquid wastes (such as Garbage or Compostables leachate) or oils (lubricating, hydraulic or fuel) are discharged to Customer premises or City streets. Any equipment not meeting these standards shall not be used within the City until repairs are made. All liquid spills will be immediately cleaned to the City's and Customer's satisfaction. Unremediated spills and failure to repair vehicle leaks shall be subject to performance fees as provided in Section 4.1.

All collection vehicles shall be labeled with signs on both the front and driver's side door and the rear of the vehicle which clearly indicate the vehicle inventory number. The Customer service telephone number shall be labeled on the side of the vehicle. Signs shall use lettering not less than four (4) inches high and shall be clearly visible from a minimum distance of twenty (20) feet. Signs, sign locations and the telephone number shall

be subject to approval by the City. No advertising shall be allowed on Contractor vehicles other than the Contractor's name, logo and Customer service telephone number and website address. Special promotional messages may be permitted, upon the City's prior written approval. In addition, any vehicle regularly used in the City shall include a placard clearly visible at the rear of the vehicle. This placard will show, in lettering at least 12" high, an abbreviated truck designation number specific to the Contractor's operating division, limited to a three digit numeral to aid in rapid identification of vehicles to allow more precise reporting and correction of any unsatisfactory condition related to specific vehicles. The 12" three digit number may be the last three digits of a larger fleet number, provided that the initial numbers are no greater than four inches high. All Contractor route, service and supervisory vehicles shall be equipped with properly licensed two-way communication equipment. The Contractor shall maintain a base station or have communication equipment capable of reaching all collection areas.

2.1.15 Container Requirements and Ownership

The City shall assign its interest in the previous contractor's in-place Cart inventory for the duration of this Contract. The Contractor shall re-label all existing Carts by June 15, 2014, with City-approved and Contractor-provided labels. Labels shall be applied squarely and shall cover any incorrect information due to changes in services or contractors. For the purposes of this Contract, these in-place Carts distributed by the previous contractor shall be considered Contractor-provided Containers and shall be managed and maintained as are the Contractor's other Containers purchased specifically for this Contract.

The Contractor shall procure and maintain a sufficient quantity of Containers to service the City's Customer base, including seasonal and economic variations in Container demand. Failure to have a Container available when required by a Customer shall subject the Contractor to performance fees, as provided in Section 4.1.

Customers may elect to own or secure Containers from other sources, and shall not be subject to discrimination by the Contractor in collection services on that account. However, Containers owned or secured by Customers must be capable of being serviced safely by the Contractor's collection vehicles to be eligible for collection. The Contractor shall provide labels and collection service for compatible Customer-owned Containers. The Contractor is not required to service Customer Containers that are not compatible with the Contractor's equipment. In the event of a dispute as to whether a particular Container is compatible, the City shall make a final determination.

2.1.15.1 Micro-Cans and Garbage Cans

Customers shall use a Contractor-owned Micro-Can or Garbage Cart for small Container Garbage collection service. Plastic bags and Garbage Cans may be used for overflow volumes of Garbage, but not as a Customer's primary Container.

If a Customer uses their own Container for excess Garbage, Contractor crews shall be expected to handle the Container in such a way as to minimize undue damage. The Contractor shall be responsible for unnecessary or unreasonable damage to Customer-owned Containers, wear and tear excepted.

2.1.15.2 Garbage, Recyclables and Compostables Carts

The Contractor shall provide Micro-Cans, and 20/21-, 32/35-, 45, 64- and 96-gallon Garbage Carts for the respective level of Garbage collection; 35-, 64- or 96-gallon Recyclables Carts; and 35, 64- and 96-gallon Compostables Carts. All Carts shall be manufactured from a minimum of 10 percent (10%) post-consumer recycled plastic, with a lid that will accommodate a Contractor affixed instructional label. Carts shall be provided to requesting Customers within seven (7) days of the Customer's initial request. Failure to do so will result in performance fees as provided in Section 4.1. All wheeled cart manufacturers, styles and colors shall be approved in writing by the City prior to the Contractor ordering a cart inventory. All Carts must have materials preparation instructions and telephone and website contact information that visually depicts allowed and prohibited materials suitable for the designated Cart either screened or printed on a sticker affixed to the lid.

All Contractor-owned wheeled carts shall: be maintained by the Contractor in good condition to allow material storage, handling, and collection; contain no jagged edges or holes; be equipped with functional wheels or rollers for movement; be equipped with functional lid; and be equipped with an anti-skid device or sufficient surface area on the bottom of the Container to prevent unwanted movement. The carts shall be labeled with instructions for proper use, including any Customer actions that would void manufacture warranties (such as placement of hot ashes in the Container causing the Container to melt or burn).

Contractor personnel shall note any damaged hinges, holes, poorly functioning wheels and other similar repair needs on Contractor-owned carts (including those for Garbage, Recycling and Compostables) and forward repair notices to the

Contractor's service personnel. Cart repairs shall then be made within seven (7) days at the Contractor's expense. Any Cart that is damaged or missing on account of accident, act of nature or the elements, fire, or theft or vandalism by other members of the public shall be replaced no later than three (3) business days after notice from the Customer or City. Replacement Carts may be new or used and reconditioned, and all Carts shall be clean and appear presentable when delivered. Unusable carts shall be retrieved by Contractor, cleaned (if necessary) and recycled to the extent possible.

In the event that a particular Customer repeatedly damages a Cart or requests more than one replacement Cart during the term of the Contract due solely to that Customer's negligence or intentional misuse, the Contractor shall forward in writing the Customer's name and address to the City. The City shall then attempt to resolve the problem. In the event that the problem continues and upon City-approval, the Contractor may charge the Customer a City-approved Cart destruction fee no greater than half of the current new Cart replacement cost.

2.1.15.3 Detachable and Drop-Box Containers

The Contractor shall furnish, deliver, and properly locate 1-, 1.5-, 2-, 3-, 4-, 6- and 8-cubic yard Detachable Containers, and 10-, 20-, 30- or 40-cubic yard uncompacted Drop-Box Containers to any Customer who requires their use for storage and collection of Garbage, Recyclables or Compostables within three (3) days of the request.

Containers shall be located on the premises in a manner satisfactory to the Customer and for collection by the Contractor. Containers shall not be placed by Contractor, or kept for use by Customer, in any City Public Street. Any Container located in any City Public Street at any time is at the Contractor's risk and not the City's. Any Container located in City Public Right of Way is in violation of this section, and shall immediately be removed upon request by the City.

Detachable Containers shall be: watertight and equipped with tight-fitting metal or plastic covers, which covers shall be closed by Contractor after every service; have four (4) wheels for Containers 2-cubic yards and under; be in good condition for Garbage, Recyclables or Compostables storage and handling; and, have no leaks, jagged edges or holes. Drop-Box Containers shall be all-metal, and if requested by a Customer, equipped with a tight-fitting screened or solid cover operated

by a functional winch system that is maintained in good repair. Each type of Detachable Container (i.e. Recyclables, Compostables or Garbage) shall be painted a color consistent with the program it is used for, subject to the requirements of Section 2.1.15.6, with color changes subject to the City's prior written approval. Containers shall be repainted as needed, or upon notification from the City.

Detachable Containers shall be cleaned, reconditioned and repainted (if necessary) before being initially supplied, or returned after repair or reconditioning, to any Customer. The Contractor shall provide an on-call Container cleaning service to Customers. The costs of on-call cleaning shall be billed directly to the Customer in accordance with Attachment B.

Containers on Customers' premises are at the Contractor's risk and not the City's. The Contractor shall repair or replace within twenty-four (24) hours any Container that was supplied by the Contractor if the City or a Health Department inspector determines that the Container fails to comply with reasonable standards or in any way constitutes or contributes to a health or safety hazard.

In the event that a particular Customer repeatedly damages a Container due to that Customer's negligence or intentional misuse, the Contractor shall forward in writing the Customer's name and address to the City. The City shall then attempt to resolve the problem. In the event that the problem continues, the Contractor may discontinue service to that Customer, on the City's prior approval.

2.1.15.4 Recycling Carts

The Contractor shall provide Recycling Carts to Customers within the City Service Area, including new Residences and annexation areas, as well as replacement Carts to existing Customers who request them because of loss, theft or damage. Carts shall be provided within seven (7) days of a Customer request.

All distributed Recycling Carts shall include information materials describing material preparation and collection requirements. Any materials published by the Contractor must be reviewed and approved by the City prior to printing and distribution by the Contractor. All Recycling Carts shall be labeled with materials preparation instructions that visually depict allowed and prohibited materials suitable for the

designated Cart either screened or printed on a sticker affixed to the lid, along with telephone and website contact information. All Recycling Carts shall be provided at the Contractor's sole expense.

In the event that a Customer intentionally damages or misuses their Recycling Cart, the Contractor may discontinue recycling service to that Customer, on the City's prior approval and/or may charge the Customer a City-approved Cart destruction fee no greater than half of the current new Cart replacement cost.

2.1.15.5 Ownership

On the termination of this Contract for any reason, all Contractor-supplied Garbage Carts, Recycling Carts, Compostables Carts and Detachable Containers purchased or obtained by the Contractor in performance of this contract, shall, at the option of the City, revert to City ownership without further compensation to the Contractor. Upon written notice, the City may elect to assign this ownership option to a third party.

Drop-Box Containers shall be purchased, delivered and maintained by the Contractor during the term of this Contract. On the termination of this Contract for any reason, the City may, at its option, purchase or assign the right to purchase the Contractor's in-place inventory of Drop-Box Containers for use by the successive contractor. In the event that Contractor's Containers are purchased or assigned, the sale price shall equal fifty percent (50%) of the average new price for each Container, based on the average price from three (3) manufacturers at the time of the termination. For the purposes of this transaction, the average prices shall include transportation from the manufacturer to the Contractor's closest service yard, but shall exclude sales or use taxes.

2.1.15.6 Container Colors and Labeling

New and replacement Contractor-provided Recycling Carts shall be blue, Compostables Carts shall be green, and Garbage Carts shall be gray. Detachable Containers used for Garbage shall be green and all Detachable Containers used for Recyclables shall be blue. The color requirements apply to both Cart bodies and lids, but not Commercial Container lids. Containers requiring repainting, including Containers damaged by graffiti, shall be repainted within one week of verbal, written or e-mail notification by the City or Customer.

The City may direct changes to cart colors at any time prior to the Contractor ordering initial or replacement carts provided the new direction from the City does not require replacement of existing inventories and the cost per unit does not increase to the Contractor. Specific Container colors shall be approved by the City prior to the Contractor's order of new Containers.

All Containers shall be labeled with up-to-date instructional information and contact information prior to delivery, including both a customer service phone number and a website address. All label designs shall be approved by the City prior to ordering by the Contractor. The location of the label on the Containers shall be subject to the City's prior approval. Labels shall be replaced by the Contractor at no additional charge when faded, damaged, out-of-date, or upon City or Customer request.

2.1.15.7 Container Weights

Micro-Cans, Garbage Cans and Garbage Carts shall not exceed two (2) pounds per gallon of Container capacity.

No specific weight restrictions are provided for Detachable Containers, however, the Contractor shall not be required to lift or remove materials from a Detachable Container exceeding the safe working capacity of the collection vehicle. The combined weight of Drop-Box and contents must not cause the collection vehicle to exceed legal road weights.

The Contractor shall participate upon request in a City-funded and managed Container weight study to be conducted no more than once every three years of the Contract. At the City's option, the container weight study results may be used to update the disposal components listed in Attachment C of this Contract.

2.1.16 Spillage

All loads collected by the Contractor shall be completely contained in collection vehicles at all times, except when material is actually being loaded. Hoppers and tippers on all collection vehicles shall be operated so as to prevent any blowing or spillage of materials. Any blowing or spillage of materials either caused by Contractor or that occurs during collection shall be immediately cleaned up by the Contractor at Contractor's expense. Prior to any collection vehicle leaving a collection route and/or operating on any roads with a speed limit higher than 25 miles per hour, Contractor shall completely close any collection vehicle openings where materials

may blow out, and thoroughly inspect for and contain any collected materials inadvertently spilled on top of the collection vehicle to prevent release or littering this material. Spillage not immediately cleaned up shall be cause for performance fees, as described in Section 4.1.

All vehicles used in the performance of this Contract shall be required to carry regularly-maintained and fully-functional spill kits. At a minimum, spill kits shall include absorbent pads or granules, containment booms, storm drain covers, sweepers and other similar materials sufficient to contain, control and, for minor events, appropriately clean-up any spillage or release of wind-blown materials, litter, or leaks of Contractor vehicle fluids or leachate. The Contractor shall notify the City via e-mail within two hours of any major spill or any spill that leaves a noticeable stain on City Roads or private property. Spill kits shall also include employee spill containment instructions and procedures as well as a regularly updated list of emergency contacts. The Contractor shall develop spill response procedures for review and approval by the City before initiating any work under this Contract. Prior to operating any vehicle in the City, all Contractor vehicle drivers shall be provided with hands-on training on the location, maintenance, and use of spill kits and associated containment and notification procedures. Such training shall be provided to all vehicle drivers at least annually.

All Drop-Box loads (both open and compactor) shall be properly and thoroughly covered or tarped to prevent any spillage of material prior to Contractor vehicle entering any Private Road or Public Street.

2.1.17 Pilot Programs

The City may wish to test and/or implement one or more changes to waste stream segregation, materials processing or collection technology, promotion of services, or collection frequency at some point during the term of the Contract. The City shall notify the Contractor in writing at least ninety (90) days in advance of its intention to implement a pilot program or of its intentions to utilize a new technology system on a City-wide basis. The costs (or savings) accrued by any City-initiated pilot programs shall be negotiated prior to implementing any City-directed pilot or proceeding with City Service Area-wide full implementation. The Contractor shall coordinate with the City and participate fully in the design, roll-out, operation and troubleshooting of such pilot programs.

Contractor-initiated pilot programs shall require prior written notification and approval by the City. Contractor-initiated pilot programs shall be performed at no additional cost to the City or the Contractor's Customers; however, savings accrued may be subject to negotiations prior to City-wide implementation at the City's request.

Contractor-initiated surveys are allowed of businesses and/or Residences to gather information about generic service preferences or to access pilot program options or outcomes, provided that all related data and analysis is shared with the City.

2.1.18 Disruption Due to Construction

The City reserves the right to construct any improvement or to permit any such construction in any street or alley in such manner as the City may direct, which may have the effect for a time of preventing the Contractor from traveling the accustomed route or routes for collection. However, the Contractor shall, by the most expedient manner, continue to collect Garbage, Recyclables and Compostables to the same extent as though no interference existed upon the streets or alleys normally traversed. This collection shall be done at no extra expense to the City or the Contractor's Customers.

2.1.19 Contractor Planning Assistance

The Contractor shall, upon request and without additional cost, make available site planning assistance to either the City and/or property owners or their representatives. The site planning assistance shall be available for all new construction or remodeling of buildings and structures within the City Service Area, and shall address the design and planning of Garbage, Recyclables and Compostables removal areas and their location upon the site of the proposed construction or remodeling project. Contractor planning assistance for optimizing loading docks, enclosures, compactor equipment, and other similar structures or areas shall also be available for existing Customers when adjusting Garbage, Recyclables and Compostables services. Contractor planning assistance shall be provided within two working days of the Contractor receiving a written request for assistance.

2.1.20 Safeguarding Public and Private Facilities

The Contractor shall be obligated to protect all public and private improvements, facilities and utilities whether located on public or private property, including street Curbs. If such improvements, facilities, utilities or Curbs are damaged and such damage is primarily attributable to the Contractor's operations, the Contractor shall notify the City immediately in writing of all damage, and the Contractor shall repair or replace the same. If the Contractor fails to do so promptly, as determined by the City, the City shall cause repairs or replacement to be made, and the cost of doing so shall be billed to and become the responsibility of the Contractor.

2.1.21 Company Name

The Contractor shall not use a firm name containing any words implying municipal ownership without prior written permission from the City.

2.1.22 Transition and Implementation of Contract

Within 45 days of the execution of this Contract and no later than 180 days prior to the commencement of services, Contractor shall provide a detailed Transition and Implementation Plan to the City for review and approval. The Contractor's operations and management staff shall be available for weekly meetings with the City, at the City's request, during the Transition and Implementation Period, which shall be a period extending from submittal of the Transition and Implementation Plan through 90 days following the commencement of services. The Contractor shall provide weekly tallies of container delivery counts and delivery areas, billing and customer service updates, problems encountered and options for resolution, a summary of upcoming activities, and other information necessary for the City to evaluate the Contractor's implementation efforts and to remain fully apprised of the transition between contractors.

2.1.23 Ongoing Coordination with City and Performance Review

The Contractor's supervisory staff shall be available to meet with the City at the City's offices on request as well as on a quarterly schedule to discuss and resolve operational and Contract issues. The City may, at its option, conduct periodic performance reviews of the Contractor's performance under this Contract. The City may perform the review to confirm various aspects of the Contractor's operations and compliance with this Contract. City staff or contracted consultants may provide the review at the City's direction. The Contractor shall fully cooperate and assist with all aspects of the performance review, including access to Contractor's route and Customer service data, billing information, safety records, equipment, facilities and other applicable items. The City's scope of review under this provision is intended to focus on analysis of the Contractor's performance and Contract compliance.

The results of the performance review shall be presented to the Contractor and a plan for addressing any deficiencies shall be provided to the City within two (2) weeks of the Contractor's receipt of the review. The Contractor shall analyze and correct in good faith any deficiencies found in its performance under this Contract, including broader implementation of corrections that extend beyond the limited data or scope of a performance review to bring Contractor into more complete Contract compliance.

The Contractor's corrective plan shall address all identified deficiencies and include a timeline for corrective actions. The Contractor's corrective plan shall be subject to review and approval by the City. Upon approval of the plan, the Contractor shall implement and sustain actions that correct

deficiencies. Failure to complete correction of deficiencies as outlined in the plan and/or failure to initiate good faith corrective actions within thirty (30) days shall constitute a failure to perform subject to performance fees as defined in 4.1.

The Contractor shall continually monitor and evaluate all operations to ensure compliance with this Contract. At the request of the City, the Contractor shall report its own findings from internal monthly performance measures for collection, customer service and maintenance functions. The City shall determine which of the Contractor internal performance management measures are relevant to addressing any particular deficiencies and the Contractor shall continue to report those measures until notified in writing by the City.

2.1.24 Disposal Restrictions and Requirements

All Garbage collected under this Contract, as well as residues from processing Recyclables and Compostables, shall be delivered to the King County Disposal System, unless otherwise directed in writing by the City.

Garbage containing obvious amounts of Yard Debris shall not knowingly be collected and instead prominently tagged with a notice informing the Customer that King County does not accept Yard Debris mixed with Garbage for collection. Contractor's knowing collection of Garbage mixed with visible Yard Debris shall be grounds for performance fees as provided in Section 4.1.

The Contractor shall not be required to collect hazardous materials that are either restricted from disposal or would pose a danger to collection crews. If materials are rejected for this reason, the Contractor shall leave a written notice with the rejected materials listing why they were not collected and providing the Customer with a contact for further information about proper disposal options. The Customer shall remain responsible for all costs associated with handling and disposal of hazardous materials inadvertently collected by Contractor.

Garbage collected by the Contractor may be processed to recover Recyclables, provided that the residual is disposed in accordance with the City's Interlocal Agreement with King County. In the event the Contractor elects to haul Garbage to a private processing facility, the Contractor shall charge the Customer no more than the equivalent Garbage disposal fee at a King County Disposal System transfer station and shall charge hauling fees no higher than provided for in Attachment B.

2.1.25 Violation of Ordinance

The Contractor shall report in writing immediately to the City any observed violation of the City's ordinances providing for and regulating the

Containerization, collection, removal and disposal of Garbage, Recyclables and Compostables.

2.1.26 Contractor Planning and Performance Under Labor Disruption

No later than ninety (90) days prior to the expiration of any labor agreement, the Contractor shall provide the City with its planned response to labor actions that could compromise the Contractor's performance under this Contract. The Contractor-prepared Strike Contingency Plan shall address in detail:

1. The Contractor's specific staffing plan to cover Contract services, including identification of staff resources moved from out-of-area operations and the use of local management staff to provide basic services. The staffing plan shall be sufficient to provide recovery of full operations within forty-eight (48) hours following the initiation of the disruption.
2. Contingency training plans to ensure that replacement and management staff operating routes are able to continue to collect route data and follow collection and material delivery procedures for all material streams collected from Customers.
3. Identification of temporary Drop-box Container or staffed packer truck locations for all material streams. For all sites identified in the Contractor-prepared Strike Contingency Plan, the Contractor shall list the property owner/lessee's contact information and the date on which permission for temporary use was received. The City shall review these locations, after which the City shall approve or deny in writing use of specific locations.
4. A recovery plan to address how materials will be collected in the event of a short-notice disruption that does not allow the Contractor to collect all materials on their regular schedule (e.g. a wildcat strike) within forty-eight (48) hours.
5. Billing policies to refund or credit the service component of rates for all services not delivered to Customers. Service credits may exclude the disposal component of rates, as those materials are assumed to be collected either through temporary Drop-Box sites or upon resumption of curbside service.

The Contractor shall keep the City informed of the status of active labor negotiations on a daily basis, specifically during the period surrounding the end of employee contracts with Contractor employees. In the event that labor disruptions of any kind cause reductions in service delivery, the Contractor shall inform the City within four (4) hours by phone and e-mail of the nature and scope of the disruption, as well as the Contractor's

immediate plans to activate any or its entire Strike Contingency Plan. Upon this notification, the forty-eight (48) hour or two-business day countdown will be deemed commenced and a state of Labor Disruption is officially declared. At the close of each service day during a Labor Disruption, the Contractor shall report to the City via e-mail the areas (per a detailed map) and customer counts of served and unserved customers by material stream and service sector.

In the event that a disruption lasts more than one week, the Contractor shall provide Drop-box Containers or staffed packer trucks for Customer use for each affected material stream in City-approved locations throughout the affected route areas.

Once a Labor Disruption is initiated, a forty-eight (48) hour 'grace' period will be allowed prior to assessment of Performance Fees. Performance fees on the Contractor pursuant to Section 4.2 shall be assessed starting for all services normally scheduled, beginning on the third day following the initiation of any disruption. Given the nature of the failure arising from labor disruptions, the Contractor shall not be allowed any cure period opportunity or rectification process; provided, however, that the City may elect to receive the equivalent value of additional services, as negotiated, in lieu of performance fees.

The Contractor's failure to comply with the provisions of this section shall be subject to a special fee of fifty thousand dollars (\$50,000) per day for its non-compliance during the Labor Disruption event. This special fee is separate compensation to the City for the Contractor's failure to plan and execute the provisions of this section. The special fee shall be paid to the City within thirty (30) days of the Contractor's receipt of the City invoice. This fee is not a regular performance fee for the purposes of Section 5 and shall not be counted in the cumulative performance fee default threshold referenced in Section 4.2(4).

2.1.28 Hiring Preferences and Prevailing Wage

For initial hiring under this Contract, the Contractor and subcontractors shall actively recruit and give primary hiring preference to any collection workers who have been displaced as a result of the City awarding this Contract and secondary hiring preference to SeaTac residents, provided that such workers are fully qualified and meet the Contractor's standards for employment.

Upon the hiring of a displaced collection worker represented by local 117 or 174, the company shall be required to keep the displaced worker whole in regard to the workers pay and benefit accruals earned as of the date of displacement. To the extent application of the company's collective bargaining agreement would otherwise result in a reduction in pay or

benefits, the existing pay/benefit accrual will be maintained at the current rate until such time as the applicable bargaining agreement provision(s) provides for an increase. Any displaced worker must be reimbursed by the company for any required COBRA payments made in order to retain health care coverage during the time period between displacement and when the worker would become eligible for such benefits under the company's bargaining agreement.

The Contractor will comply with all Washington State prevailing wage law requirements for employees providing service to the City of SeaTac under the contract.

2.2 Collection Services

2.2.1 Single-Family Residence Garbage Collection

2.2.1.1 Subject Materials

The Contractor shall collect all Garbage placed Curbside for disposal by Single-Family Residence Customers in and adjacent to Micro-Cans, Garbage Cans or plastic bags (for Extra Units) and/or Contractor-owned Garbage Carts. The Contractor shall offer carry-out service to disabled Customers at no charge (per Section 2.1.6) and to all other Customers for the appropriate service level rate, plus the carry-out surcharge, in accordance with Attachment B. If a Customer is either eligible for, or subscribes to, carry-out service, carry-out service shall be provided for all three collection streams (Garbage, Recyclables, and/or Compostables) without duplicate surcharges.

2.2.1.2 Collection Containers

The Customer's primary Container must be a Micro-Can or Garbage Cart. Plastic bags and Garbage Cans may only be used for Extra Units, not as the Customer's primary Container. Micro-Can and Cart rental fees shall be embedded in the respective rate charged for the level of service and not separately charged or itemized.

Micro-Cans and Garbage Carts shall be delivered by the Contractor to Single-Family Residence Customers within seven (7) calendar days of the Customer's initial request.

2.2.1.3 Specific Collection Requirements

The Contractor shall offer regular weekly collection of the following service levels:

- (1) One 10-gallon Micro-Can
- (2) One 20/21-gallon Garbage Cart;
- (3) One 32/35-gallon Garbage Cart;
- (4) One 45-gallon Garbage Cart;
- (5) One 64-gallon Garbage Cart; and
- (6) One 96-gallon Garbage Cart.

On request, the Contractor shall also offer Customers monthly collection of one 32/35-gallon Garbage Cart with no putrescible wastes, at a rate equal to the weekly Micro-Can service level. Customers subscribing at this service level will continue to receive regularly scheduled Curbside recycling service.

Carry-out charges shall be assessed only to those Customers who choose to have the Contractor move Containers to reach the collection vehicle at its nearest point of access. An Extra Unit charge may be assessed for materials loaded so as to lift a Cart lid in excess of six (6) inches from the normally closed position. The Contractor may charge for an overweight Container at the Extra Unit rate, provided that the Customer agrees in advance to pay for the Extra Unit rate, otherwise, the Container shall be left at the Curb with Customer notification as to why it was not collected. The Contractor shall maintain route lists in sufficient detail to allow accurate recording and charging of all Extra Unit fees. All Extra Units from Customers with a history of disputed charges shall be documented with a date and time stamped photograph. Customers shall be allowed to specify that no Extra Units be collected without prior Customer notification, which shall be provided by the Customer no less than twenty-four (24) hours prior to that Customer's regular collection.

Collections shall be made from Single-Family Residences on a regular schedule on the same day and as close to a consistent time as possible. Customers shall place Containers on or abutting Public Streets or Private Roads. The Contractor may tag inappropriately placed Containers and may discontinue service in the event of persistent inappropriate Container placement. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers, in an upright position, with lids closed and attached, to their set out location and will not place Containers on streets, sidewalks,

public pathways, or in places that block vehicle access to any driveways, mailboxes, or similar structures.

Once each calendar year, on an on-call basis, the Contractor shall provide each Customer with a special clean-up collection at no additional charge. Under this program, a Customer may place up to one cubic yard of Garbage at the curb for collection on the Customer's regular collection day, provided that any individual item is no larger than three feet by three feet and weights no more than sixty-five pounds.

Upon one-hundred-eighty-days written notice from the City, the Contractor shall shift Single-Family Residence Garbage collection to every-other-week. In the event that the City implements this reduced collection frequency, the Single-Family Garbage rates in Attachment B shall be reduced by \$1.22/month plus the City's then-current Franchise Fee and corresponding State B&O tax on the Franchise Fee related to this reduction, subject to the rate modification provisions of Section 3.3.

2.2.2 Single-Family Residence Recyclables Collection

2.2.2.1 Subject Materials

The defined list of Residential Recyclables shall be collected from all participating Single-Family Residences as part of basic Garbage collection services, without extra charge. The Contractor shall collect all Residential Recyclables from Single-Family Residences that are prepared and either called-in or set-out as described in Attachment C. With the exception of Corrugated Cardboard, the maximum dimensions for Recycling materials shall be two (2) feet by two (2) feet. Recyclables containing obvious amounts of Compostables or Garbage shall not knowingly be collected and instead prominently tagged with a notice informing the Customer of Recyclables contamination. Customers shall be contacted and provided the opportunity to either remove the contamination and have the materials collected the following collection cycle or, alternatively, have the materials collected as Garbage at the regular extra fee.

2.2.2.2 Containers

The Contractor shall be responsible for ordering, assembling, affixing instructional information onto, maintaining adequate inventories of, and distributing and maintaining Recycling Carts. The default Recycling Cart size shall be 96-gallons for new Customers, provided that the Contractor shall offer and provide 32/35- or 64-gallon Recycling Carts on request to

those Customers requiring either less or additional capacity than provided by the standard 96-gallon Recycling Cart. Recycling Carts shall include a recycling/program brochure when distributed.

Recycling Carts shall be delivered by the Contractor to new Customers or those Customers requesting replacements, within seven (7) days of the Customer's initial request.

2.2.2.3 Specific Collection Requirements

Single-Family Residence Recyclables collection shall occur every-other-week on the same day as each household's Garbage collection. Single-Family Residence Recyclables collection shall occur during the hours and days specified in Section 2.1.4. Collections shall be made from Residences on a regular schedule on the same day and as close to a consistent time as possible. The Contractor shall collect on Public Streets and Private Roads in the same location as Garbage collection service is provided. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers with their lids closed and attached to their set out location in an orderly manner.

The Contractor shall collect all properly prepared Single-Family Residence Recyclables from Garbage Customers. No limits shall be placed on set-out volumes, except in the case when extremely large quantities of commercially-generated materials are consistently set out at a Single-Family Residence. In this case, the Contractor shall request the resident to use a larger Recycling Cart or use commercial recycling services for the excess volumes. If the resident continues to set out commercial quantities of Recyclables, the Contractor shall notify the City for further action. In the event that large quantities of Residentially-generated cardboard (e.g. moving boxes) are set out for collection, the Contractor may collect the excess materials the following day in a separate truck, provided that clear written notification of the collection delay is provided to the Customer.

The Contractor shall collect properly packaged used motor oil from Single-Family Residential Customers. The Contractor may refuse to collect used motor oil from any Customer for any one of the following reasons: 1) the oil was not packaged in a clear, leak proof, plastic jug or bottle, securely sealed with a screw-cap; 2) the packaged oil contained substances other than used motor oil; 3) the packaged oil leaks in any way 4) the

Container is not properly labeled with the Customer's name and address; or 5) there is spillage at the Customer location which is not caused by the Contractor's employees. Should the Contractor reject used motor oil for any of these reasons, a tag outlining the reason for rejection shall be left with the oil.

The City and Contractor shall cooperate on monitoring the quality of Recyclables set out for collection. Either party may inspect or sample set-out or collected Recyclables. Any deficiencies in Recyclables quality observed by City or Contractor's staff shall require educational follow-up by the Contractor to encourage maximum quality and marketability. Educational follow-up shall range from a minimum of a notice ticket or "oops tag" to involvement of management staff from either the City or Contractor as appropriate.

Upon one-hundred-eighty-days (180) written notice from the City, the Contractor shall shift Single-Family Residence Recyclables collection to weekly. In the event that the City implements this increased collection frequency, the Single-Family Garbage rates in Attachment B shall be increased by \$1.93/month plus the City's then-current Franchise Fee and corresponding State B&O tax on the Franchise Fee related to this increase, subject to the rate modification provisions of Section 3.3.

2.2.3 Compostables Collection

2.2.3.1 Subject Materials

Compostables shall be collected each collection cycle from Single-Family Customers who subscribe for that service.

Compostables containing obvious amounts of Recyclables or Garbage shall not knowingly be collected and instead prominently tagged with a notice informing the Customer of Compostables contamination. Customers shall be contacted and provided the opportunity to either remove the contamination and have the materials collected the following collection cycle or, alternatively, have the materials collected as Garbage at the regular extra fee.

Contaminated or oversized Compostables materials rejected by the Contractor at the Curb shall be tagged in a prominent location with an appropriate problem notice explaining why the material was rejected.

2.2.3.2 Containers

A 32, 64, or 96-gallon Compostables Cart shall be provided to each subscriber, at their option. The Contractor shall be responsible for ordering, assembling, affixing instructional information onto, maintaining inventories of, and distributing and maintaining Compostables Carts. Compostables Carts shall be labeled with instructional information, in accordance with Section 2.1.15.6..

Extra Yard Debris material that does not fit in the initial Compostables Cart shall be bundled or placed in Kraft bags or Customer-owned Garbage Cans labeled for Yard Debris. Customers choosing to use their own Containers for excess Yard Debris shall be provided durable stickers by the Contractor that clearly identify the Container's contents as Yard Debris.

Compostables Carts shall be delivered by the Contractor to Customers within seven (7) days of the Customer's initial request. Redelivery fees shall be charged only to those Residential Customers that cancel and then restart Compostables Cart collection service within seven months of cancellation. In order for this fee to be applicable, Contractor must notify each Customer at the time they request service cancellation. The Contractor may charge a Compostables Cart cleaning and deodorizing fee, per occurrence, for each Compostables Cart cleaned and redelivered to existing Compostables collection subscribers upon their request.

2.2.3.3 Specific Collection Requirements.

Compostable materials shall be collected every-other-week on the same scheduled service day as Garbage collection. Compostables in excess of 192 total gallons may be charged as Compostables Extra Units in 32 gallon increments in accordance with Attachment B, except during the two collection cycles immediately following a storm event, when up to 96 additional gallons of storm debris shall be accepted with regular quantities of Compostables without extra charge.

Unflocked, undecorated, natural holiday trees (Christmas Trees) will be collected at no additional cost on the first two weeks of scheduled Compostable materials collection each year from all Single-Family and Multifamily Residences in the City if prepared as 2x2x4 feet sections or bundles.

The Contractor shall collect on Public Streets and Private Roads, in the same location as Garbage collection is provided.

The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers in an upright position, with lids attached, to their set out location and will not place Containers on streets, sidewalks, public pathways, or in places that block vehicle access to any driveways, mailboxes, or similar structures.

Upon one-hundred-eighty-days (180) written notice from the City, the Contractor shall shift Single-Family Residence Compostables collection to weekly. In the event that the City implements this increased collection frequency, Single-Family Garbage rates in Attachment B shall be increased by \$3.62/month plus the City's then-current Franchise Fee and corresponding State B&O tax on the Franchise Fee related to this increase, subject to the rate modification provisions of Section 3.3.

2.2.4 Single Family Bulky Waste Collection

2.2.4.1 Subject Materials

On-call Bulky Waste collection shall be offered, and shall be provided at the rate listed in Attachment B. Collected oversized items shall be recycled by the Contractor to the extent possible. The Contractor shall maintain a separate log listing service date, materials collected, Customer charges and whether the item was recycled or disposed. This log shall be provided to the City on a monthly basis.

2.2.4.2 Specific Collection Requirements

On-call collection services of bulky waste such as couches, mattresses, white goods and other oversized materials shall occur during the hours and days specified in Section 2.1.4, with the exception that Saturday collection is permissible if it is more convenient for Customers. The Contractor's crews shall make collections in an orderly and quiet manner.

2.2.5 Multi-Family Complex and Commercial Customer Garbage Collection

2.2.5.1 Subject Materials

The Contractor shall collect all Garbage set out for disposal by Multi-Family Complex and Commercial Customers in acceptable Containers as designated in Section 2.2.5.2.

2.2.5.2 Containers

The Contractor shall provide Containers meeting the standards described in Section 2.1.15. Multi-Family Complex and Commercial Customers shall be offered a full range of Containers and service options, including Garbage Carts, one (1) through six (6) cubic yard compacted and one (1) through eight (8) cubic-yard non-compacted Detachable Containers, and compacted or non-compacted Drop-Box Containers. The Contractor may also lease or sell compacted Drop-Box Containers and Drop-Box and Detachable Container Compactors to Customers outside of this Contract at rates negotiated between the Customer and the Contractor.

Materials in excess of Container capacity or the subscribed service level shall be collected and properly charged as Extra Units at the rates listed in Attachment B. The Contractor shall develop and maintain route lists in sufficient detail to allow accurate recording and charging of all Extra Units and documentation of service irregularities such as damaged or blocked Containers. All Extra Units and service irregularities shall be documented with a date and time stamped photograph.

The Contractor may use either or both front-load or rear-load Detachable Containers to service Multi-Family Complex and Commercial Customers. However, not all collection sites within the City Service Area may be appropriate for front-load collection due to limited maneuverability or overhead obstructions. The Contractor shall provide Containers and collection services capable of servicing all Customer sites, whether or not front-load collection is feasible at that Customer's site.

Contractor-owned Containers shall be delivered by the Contractor to requesting Multi-Family Complex and Commercial Customers within three (3) days of the Customer's initial request. Customers shall properly care for Containers on the Customer's property, shall use reasonable efforts to protect such Containers from graffiti or negligent misuse, and shall not use such Containers for other than their intended purpose.

2.2.5.3 Specific Collection Requirements

Commercial Garbage collection shall be made available to Multi-Family Complex and Commercial Customers daily, Monday through Saturday, during the times specified in Section 2.1.4. Collection at Multi-Family sites shall be limited to the same hours as Single-Family Residence collection. Collections shall be made on a regular schedule on the same

day and as close to a consistent time as possible to minimize Customer confusion. The Contractor shall collect from areas mutually agreed upon by the Contractor and Customer with the least slope and best truck access possible. Containers shall be replaced after emptying in the same location as found.

Extra charges may be assessed for materials loaded so as to lift the Garbage Can, Garbage Cart or Detachable Container lid in excess of six (6) inches from the normally closed position.

Customers may request extra collections and shall pay a proportional amount (e.g. one pick-up per week rate divided by 4.33 weeks per month) of their regular monthly rate for that service.

2.2.5.4 Premium Services

Premium services for Commercial and Multifamily Customers include Contractor-provided locks, lockboxes to hold customer keys, opening and closing gates, and rolling out containers more than 10 (ten) feet. The charges for premium services are specified in Attachment B.

2.2.6 Multi-Family Complex Recyclables Collection

2.2.6.1 Subject Materials

The Contractor shall provide adequate Container capacity and collect all Recyclables from Multi-Family Complexes consistent with the material list, preparation requirements and limitations described in Attachment C. This embedded Recyclables collection shall occur at no extra charge from base Garbage collection. The Contractor shall tag contaminated Containers, but will not collect the contaminated load as Garbage and not charge the resident or property manager a fee for contamination unless notification and correction procedures as specified by the City are completed.

2.2.6.2 Containers

The Contractor shall use Detachable Containers for recycling collection at Multi-Family sites wherever practicable and shall use Recycling Carts only at duplexes, tri-plexes, four-plexes and other sites where site constraints limit the use of Detachable Containers. Upon notice, Contractor shall equip Detachable Containers with special slotted recycling lids approved by the City.

The Contractor shall be responsible for ordering, assembling, affixing instructional information onto, maintaining inventories of, and distributing and maintaining Detachable Containers and Recycling Carts. The default Recycling Cart size shall be 96-gallons, provided that the Contractor shall offer and provide 32- or 64-gallon Recycling Carts on request to those complexes requiring either less or additional capacity than provided by the standard 96-gallon Recycling Cart. Recycling Carts shall be labeled with recycling collection requirements in accordance with Section 2.1.15.6 when distributed. The City may require that combination or common-keyed locks and multiple keys be provided by Contractor at no extra charge to limit contamination of Recycling Carts or Recycling Detachable Containers.

Recycling Carts and Containers shall be delivered by the Contractor to requesting Customers within three (3) days of the Customer's initial request. Multi-Family Complex Recycling Carts shall be relabeled periodically in accordance with Section 2.1.15.6.

2.2.6.3 Specific Collection Requirements

Multi-Family Complex recycling collection shall occur weekly or more frequently, as needed, during the hours and days specified in Section 2.1.4 for Multi-Family Complex collection. Collections shall be made on a regular schedule on the same day(s) of the week to minimize Customer confusion. The Contractor shall collect from areas mutually agreed upon by the Contractor and Customer with the least slope and best truck access possible. After emptying Containers shall be replaced in the same location as found. Multi-Family Complex Recycling Customers shall not be charged lock, gate or roll-out fees.

When space constraints limit the provision of Containers appropriately-sized for weekly collection, the Contractor shall provide more frequent collection, as necessary, of smaller Containers to provide adequate total recycling capacity for the Multi-Family Complex site.

2.2.6.4 Multi-Family Recycling Outreach and Incentives

The Contractor shall provide ample copies of current recycling guidelines upon request of the City or Customer. The Contractor shall assist the City in the development and implementation of an annual recycling outreach and incentive

plan. The plan shall include, at a minimum, a description of planned programs, tasks assignments between the City and Contractor and support costs where appropriate.

Public Education will play an important role in this process. The Contractor and the City shall work together to conduct workshops, visit with Customers, and develop and implement a high quality public education campaign. The outcomes and results of these efforts will be tracked and reported to the City by the Contractor.

2.2.7 Commercial Recycling Collection

2.2.7.1 Subject Materials

The defined list of Commercial Recyclables shall be collected from all participating Commercial Customers as part of basic Garbage collection services, at no additional charge.

The Contractor shall collect all Commercial Recyclables from Commercial Customers that are prepared in a manner similar to that described in Attachment C. In the event of contaminated materials, the driver shall notify the Contractor, and the Contractor shall contact the Customer with specific instructions for Customer to prepare the rejected materials for collection service or authorization to collect the material as Garbage for the regular Garbage collection fee. Contractor shall notify the City immediately, through use of dispatch or route management staff, if repeated contamination occurs in Recyclables set out by any Commercial or Multi-Family Customer.

2.2.7.2 Containers

Contractor-supplied Recycling Containers shall be used for collecting Commercial Recyclables. Recycling Carts and Recycling Detachable Containers shall be distinguished from Compostables or Garbage Container colors per Section 2.1.15.6 and shall include prominent identifying labels that provide directions for the preparation of the materials to be placed in the Cart or Container.

At larger businesses, the Contractor may use Detachable Containers or Drop-Box Containers for Recyclables collection provided that they are distinguished from Containers used for Garbage collection and are equipped with prominent identifying labels.

Contractor-owned Containers shall be delivered by the Contractor to requesting Customers within three (3) days of the Customer's initial request.

2.2.7.3 Specific Collection Requirements

Commercial Recyclables collection shall be provided weekly without quantity limit during the hours and days specified in Section 2.2.5.3. Collections shall be made on a regular schedule on a consistent day and as close to a consistent time as possible to minimize Customer confusion. The Contractor shall collect in alleys where practical, and on streets where no alleys are present. Containers shall be replaced in the same location after emptying.

Commercial Recyclables collection Containers and service may be ordered by the Commercial Customer, the City, or the City's contracted technical assistance consultant, provided that the Contractor shall not be required to provide Commercial Recyclables collection to an unwilling party.

2.2.8 Multi-Family Complex and Commercial Customer Compostables Collection

2.2.8.1 Subject Materials

The Contractor shall provide Cart-based Compostables collection services to requesting Multifamily Complexes and Commercial Customers on a subscription fee basis. If additional capacity is required, the Customer may arrange for that service privately, either through the Contractor or another party. The provision of fee-based Commercial Compostables collection in Detachable Containers by the Contractor shall comply with the service and billing standards of this Contract, even through rates are not regulated by this Contract.

Contaminated or oversized Compostables materials rejected by the Contractor shall be tagged in a prominent location with an appropriate problem notice explaining why the material was rejected. The Contractor will contact Customers with specific instructions for Customer to make the rejected materials suitable for collection service.

2.2.8.2 Containers

The Contractor shall be responsible for ordering, assembling, affixing instructional information onto, maintaining inventories

of, and distributing and maintaining Compostables Carts and Detachable Containers.

Compostables Carts and Detachable Containers shall be delivered by the Contractor to new Multi-Family Complexes or Commercial Customers within three (3) days of the City's request, following the City's provision of technical assistance to the Customer to set up the program.

2.2.8.3 Specific Collection Requirements

Compostables shall be collected weekly from Multi-Family Complex and Commercial Customers. Collections shall be made on a regular schedule on the same day(s) and as close to a consistent time as possible. The Contractor shall offer Carts lining with compostable cart liners as an additional cost option. The liners shall be approved by the Contractor's composting facility. The Contractor shall also provide free cleaning of containers for each customer at least once per year upon request.

The Contractor shall collect Containers at defined Multi-Family Complex or Commercial Customer Container spaces. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers with their lids closed and attached to their set out location.

Commercial and Multi-Family Customers using Compostables Collection service and the Contractor shall comply with Seattle-King County regulations for Commercial Food Scraps collection.

2.2.9 Drop-Box Container Garbage Collection

2.2.9.1 Subject Materials

The Contractor shall provide Drop-Box Container Garbage collection services to Multi-Family Complex and Commercial Customers, in accordance with the service level selected by the Customer.

2.2.9.2 Containers

The Contractor shall provide Containers meeting the standards described in Section 2.1.15. Both Customer-owned and Contractor-owned Drop-Box Containers shall be serviced, including Customer-owned compactors.

Contractor-owned Containers shall be delivered by the Contractor to requesting Customers within three (3) days of the Customer's initial request.

2.2.9.3 Specific Collection Requirements

Single-Family Residence, Multi-Family Complex and Commercial Customer Drop-Box Container collection must occur during the hours and days specified in 2.2.5.3.. Collection of Drop-Box Containers from Single-Family Residences and Multi-Family Complex areas and multi-use buildings containing Multi-Family Complexes shall be limited to the same hours as Single-Family Residence collection.

The Contractor shall provide service and equipment capability to collect full Drop-Box Containers no later than the next business day after the Customer's initial call. The Contractor shall maintain a sufficient Drop-Box Container inventory to provide empty Containers to new and temporary Customers within three (3) business days after the Customer's initial call.

Mileage fees shall be assessed only when Customer-directed disposal/recycling sites are more than ten (10) road miles by the shortest route from a particular Customer's location, and then only on the additional mileage above twenty (20) miles round-trip. The Contractor shall obtain prior permission from the Customer to use disposal/recycling sites which would result in additional mileage charges.

2.2.10 Temporary Container Customers

The Contractor shall provide temporary 2-, 4-, and 6-cubic yard Detachable Containers and 10-, 20-, 30-, and 40-cubic yard Drop-Boxes to Single-Family Residence, Multi-Family Complex and Commercial Customers on an on-call basis. Temporary service shall include all Customers requesting Container service of less than ninety (90) days duration, including existing Customers on permanent service who temporarily request an extra Container for less than ninety (90) days. The charges for temporary Detachable Container service listed in Attachment B shall include delivery, collection and disposal. Disposal charges for temporary Drop-Box Containers shall be billed in addition to the delivery, rental and hauling charges listed in Attachment B. Rental charges shall be itemized and charged separately, at the rates listed in Attachment B. The Contractor may charge a deposit to be paid in advance of service equal to the average disposal fee for the size of temporary Container ordered if the creditworthiness of the individual Customer is in doubt.

2.2.11 Municipal Services

The Contractor shall provide weekly Garbage, Recyclables and Compostables collection to all City-owned municipal facilities as a part of this Agreement and at no additional charge. Those facilities include, but are not limited to the following:

| FACILITY | ADDRESS |
|------------------------------------|----------------------------------|
| North SeaTac Park Community Cntr | 13735 24 th Ave S. |
| Angle Lake Park | 19408 S. International Blvd |
| SeaTac City Hall | 4800 S 188 th Street |
| SeaTac Maintenance Facility | 2000 S. 136 th Street |
| SeaTac Fire Department: Station 45 | 2929 S. 200 th Street |
| SeaTac Fire Department: Station 46 | 3521 S. 170 th Street |
| SeaTac Fire Department: Station 47 | 3215 S. 152 nd Street |
| City of SeaTac Office (Recy Only) | 19639 28 th Ave S. |
| City of SeaTac Tyee Campus (Recy) | 4424 S. 188 th Street |
| North SeaTac Park (Compostables) | 2000 S. 136 th Street |

At any time during the term of this Contract, the City may add facilities in addition to those listed above. Additional municipal facilities added during the term of the Contract shall also be provided collection, including new facilities developed within the City Service Area.

The Contractor shall also provide collection to up to twenty (20) on-street litter Containers as designated by the City. The Contractor shall provide and replace litter Containers as needed.

On occasion, the City will pay the Contractor in accordance with charges listed in Attachment B for services that involve a third party, when such third party accumulates Garbage as part of performing services for the City. For example, the City would pay Contractor for the disposal of roof replacement debris removed from a City facility. Regular Garbage generated on an ongoing basis at all City facilities will otherwise be collected by the Contractor without charge to the City.

2.2.12 City-Sponsored Community Events

The Contractor shall provide Garbage, Recycling and Compostables services for City-sponsored special events at no charge to the City or users. Container capacity shall be coordinated with event staff to ensure that sufficient Container capacity and collection frequency is provided by the Contractor. These events shall include, but not be limited to:

- **Discounted Code Enforcement Clean-up Support:** In residential areas or at specific sites designated by the City, the Contractor shall provide up to twenty (20) Drop Box Containers delivery, hauls and disposal. without charge to the City. The City may specify any sized Container consistent with the Contractor's Drop-Box Container inventory.
- **Recycling Collection at Special Events:** Contractor shall provide without charge, recycling containers and collection during the following events:
 - International Festival
 - Back to School Fair

At any time during the term of this Contract, the City may add City-Sponsored Community Events in addition to those listed above, provided that if the City adds more than one event every year, the Contractor may negotiate compensation for those additional events. In the event that the total volume of materials collected by Contractor from City-Sponsored Community Events increases by more than 20% above the baseline volume for such events established in the first year of this Contract, then Contractor's rates shall be adjusted to reflect the increased cost to Contractor in providing such services.

2.2.13 Event Services

The Contractor shall offer Garbage, Recycling and Compost Cart service for events pursuant to the rates included in Attachment B, provided that the first twenty (20) event station/days each calendar year shall be provided at no cost to the City or a Customer as a community service. The Cart service shall include the provision of event stations, which shall comprise of color-coded and properly labeled Garbage, Recycling and Compost Carts, or other appropriate containers as approved by the City, along with associated signage designed to help ensure proper disposal of materials in the containers by event participants. Contractor shall offer, at no additional fee, assistance to customers in planning Garbage, Recycling and Compost collection logistics for planned events.

2.2.14 Other Solid Waste Collection Services

The Contractor may occasionally provide other regularly scheduled or one-time services related to solid waste collection in the City not specifically delineated under this Contract. In that event, the Contractor shall notify the City and propose a Customer rate for the service. Upon prior approval of the City, the Contractor may proceed to offer that service.

2.2.15 Snow Plowing Services

Following winter storm events the City may elect to have the Contractor provide support to City snow removal and/or de-icing and sanding efforts. Upon e-mail or written notice from the City, the Contractor shall equip its vehicles with plow and/or sanding equipment and provide services as specifically directed by City operations staff. Services shall be charged at the rate provided in Attachment B, based on total truck time used, including time traveling to and from plow or sanding routes.

2.2.16 Curbside Storm Clean-up

Upon written or e-mailed City request, the Contractor shall provide a City-wide curbside storm event clean-up for windfall Yard Debris. The event shall be jointly publicized by the City and the Contractor and shall be made available to all Single-family Residences, including both Customers and non-Customers. Under this service, all Single-family Residences may set out up to two (2) cubic yards of un-containerized, compostable Yard Debris on a designated day of collection. Branches shall be cut into six (6) foot or smaller lengths and be not greater than four (4) inches in diameter. All material shall be placed within five (5) feet of the curb. The Contractor may utilize collection vehicles different than those regularly used to perform collection and will not be subject to the age and emissions standards listed in Section 2.1.14, but shall be presentable, in safe working order and shall be subject to all other conditions of that Section 2.1.14. The City shall pay the Contractor the rate provided in Attachment B, per event.

2.2.17 Community Cleaning Services

The Contractor shall provide up to six (6) hours per month (72 hours per year) of community clean-up service for the City at no additional charge. These services include pressure washing, graffiti removal, porter services, sidewalk sweeping and illegal dumping remediation. Upon notice, the City may authorize and pay for additional Contractor work at the community cleaning service rates listed in Attachment B.

2.3 Management

2.3.1 Customer Service and Billing

The Contractor shall be responsible for providing all customer service functions, including: answering Customer telephone calls and e-mail requests, informing Customers of current services and charges, handling Customer subscriptions and cancellations, receiving and resolving Customer complaints, dispatching Drop-Box Containers and special collections, correlating service levels to current invoices, all Customer billing, and maintaining and regularly updating a user-friendly website.

These functions shall be provided at the Contractor's sole cost, with such costs included in the Customer charges (see Attachment B).

The City and Contractor recognize that Customer preferences for their method of communication may change during the term of this Contract and agree to adjust customer service expectations to match Customer preferences. For example, if call traffic to the Contractor's telephone-based call center reduces over time and is supplanted by an increase in texting, the Contractor shall shift staff resources accordingly to ensure high levels of customer service. The City and Contractor agree to review Contract requirements periodically and negotiate in good faith any desired improvements to the Contract service standards related to customer service delivery.

2.3.1.1 Office Location

The Contractor shall maintain a principal office in King or Pierce County within twenty (20) miles of the City limits. The Contractor's office and customer service assistance shall be accessible by a local area code and phone number, specifically for use during this contract as the Contractor's primary customer service line. The Contractor's office hours shall be open at a minimum from 8 a.m. to 5 p.m. daily, except Saturdays, Sundays and recognized holidays. Representatives shall be available at the Contractor's local office during office hours for communication with the public and City representatives. Customer calls shall be taken during office hours by a person, not by voice mail.

The Contractor shall maintain an emergency telephone number for use by City staff outside normal office hours. The Contractor shall have a representative, or an answering service to contact such representative, available at said emergency telephone number during all hours other than normal office hours.

2.3.1.2 Customer Service Requirements

2.3.1.2.1 Customer Service Representative Staffing

During office hours and Saturday from 9am to noon, the Contractor shall maintain sufficient staff to answer and handle complaints and service requests from multiple incoming telephone calls simultaneously. If incoming telephone calls necessitate, the Contractor shall increase staffing levels as necessary to meet Customer service

demands. The Contractor shall also maintain sufficient staff to answer and handle complaints and service requests made by letter or e-mail. If staffing is deemed to be insufficient by the City based on agreed-upon performance measures in Section 2.2.3.2.3, the Contractor shall increase staffing levels to meet contract performance criteria

The Contractor shall provide additional staffing during the transition and implementation period, and especially from six (6) weeks prior to the commencement of new services, through the end of the fourth month after the commencement of new services, to ensure that sufficient staffing is available to minimize Customer waits and inconvenience. The Contractor shall receive no additional compensation for increased staffing levels during the transition and implementation period. Staffing levels during the mobilization, transition and implementation period shall be subject to prior City review and approval.

2.3.1.2.2 Service Recipient Complaints and Requests

The Contractor shall record all complaints and service requests, regardless of how received, including date, time, Customer's name and address (if the Customer is willing to give this information), method of transmittal, and nature, date and manner of resolution of the complaint or service request in a computerized daily log. Any telephone calls received via the Contractor's non-office hours answering service shall be recorded in the log the following business day. The Contractor shall make a conscientious effort to resolve all complaints within twenty-four (24) hours of the original call or e-mail, and service requests within the times established throughout this Contract for various service requests. If a longer response time is necessary for complaints or requests, the reason for the delay shall be noted in the log, along with a description of the Contractor's efforts to resolve the complaint or request.

The customer service log shall be available for inspection by the City, or its designated representatives, during the Contractor's office hours, and shall be in a format approved by the City. The Contractor shall provide a copy of this log in an electronic format to the City with the monthly report.

The Contractor shall provide sufficient field service/sales staff and route manager personnel to accurately set-up accounts and visit Customers at their service location as needed – for example during roll-out of service changes that impact multiple accounts, or during establishment of new Recycling or Compostables collection service changes. The Contractor's field service/sales staff shall be able to describe to Customers any related service procedures and Container or equipment needs, and be able to calculate any related rate impacts that would arise from implementing service change options. The Contractor's field service/sales staff shall also be responsible for completion of outreach and tracking specified in Section 2.3.5, including related required annual reporting.

2.3.1.2.3 Handling of Customer Calls

All incoming telephone calls shall be answered promptly and courteously, with an average speed of answer of less than twenty (20) seconds. For all calls placed in the queue, no greater than five percent overall shall abandon on a monthly basis. A summary of these discrete performance measures will be provided as part of required monthly reporting. A Customer shall be able to talk directly with a customer service representative when calling the Contractor's Customer service telephone number during office hours. An automated voice mail service or phone answering system may be used when the office is closed.

2.3.1.2.4 Corrective Measures

Upon the receipt of Customer complaints in regards to busy signals or excessive delays in

answering the telephone, the City may request and the Contractor shall submit a plan to the City for correcting the problem. Once the City has approved the plan, the Contractor shall have thirty (30) days to implement the corrective measures, except during the transition and implementation period, during which time the Contractor shall have one (1) week to implement corrective measures. Corrective measures shall be implemented without additional compensation to the Contractor. Failure to provide corrective measures shall be subject to performance fees.

2.3.1.2.5 Internet Website

The Contractor shall provide a Customer-friendly Internet website accessible twenty-four (24) hours a day, seven (7) days a week, containing information specific to the City's collection programs, including at a minimum, contact information, collection schedules, material preparation requirements, available services and options, rates, inclement weather service changes and other relevant service information for its Customers. The website shall include an email function for Customer communication with the Contractor, and the ability for Customers to submit service requests on-line. E-mailed Customer service requests shall be answered the next business day after receipt. The website shall offer Customers the option to pay their service bills on-line through a secured bill payment system. Website content and design shall be submitted for City approval a minimum of three (3) days prior to planned roll-out of website changes, and website content and design shall continue to be subject to the City's approval throughout the term of this Contract. The Contractor shall update the website monthly, and more often if necessary, and provide links to the City's website. The website shall include contact information translated into Spanish. The Contractor's website shall minimize "pop-up" windows, and not include adware, spyware or third party tracking "cookies."

2.3.1.2.6 Texting

The Contractor shall either adapt its existing call center telephone system or provide a separate number for Customer who prefer to use texting for service questions or requests.

2.3.1.2.7 Full Knowledge of Programs Required

The Contractor's customer service representatives shall be able to accurately describe all collection services available to City Customers, including the various services available to Single-Family Residence, Multi-Family Complex and Commercial Customers. For new Customers, customer service representatives shall explain all Garbage, Recyclables, Compostables and Food Scrap collection options available depending on the sector the Customer is calling from. For existing Customers, the representatives shall explain new services and options, and resolve recycling issues, collection concerns, missed pickups, Container deliveries, and other Customer concerns. Customer service representatives shall be trained to inform Customers of all Recyclables, Compostables and Food Scrap preparation specifications. Policy questions resolvable by the City shall be immediately forwarded to the City for response. The Contractor's customer service representatives shall have real-time electronic access to customer service data and history to provide efficient and high-quality customer services.

2.3.2 Contractor's Customer Billing Responsibilities

The Contractor shall be responsible for all billing functions related to the collection services provided under this Contract. All Single-Family Residence Customers shall be billed at least quarterly, and Multi-Family Complex and Commercial Customers shall be billed monthly. Customers may be billed prior to receiving service, but the due date (or past due date) shall be no sooner than the last day of service provided under that billing cycle. The bill's due date shall be no sooner than fifteen (15) business days after the date the bill is mailed. The Contractor may make account adjustments for over- or under-charges, provided that under-charges may only be charged for services provided within ninety (90) days of the bill date.

Billing and accounting costs associated with Customer invoicing shall be borne by the Contractor, and are included in the service fees in Attachment B. The Contractor may bill to Customers late payments and NSF (“bounced”) check charges, as well as the actual third party costs of bad debt collection. Late fees shall not exceed one percent (1%) per month and NSF charges shall not exceed twenty dollars (\$20.00) per NSF check or actual bank charges, whichever is greater.

Single-Family Residential Customers may temporarily suspend service due to vacations or other reasons for as long and as often as desired in one (1) week increments and be billed pro-rata for actual collection services received, provided that they shall be charged the weekly stand-by rate to cover the cost of in-place Carts.

All Single-Family Residence Recyclables collection costs and revenues shall be included in the Garbage collection rate and shall not be charged or itemized separately. Subscription Compostables services shall be itemized separately. All Multi-Family Complex Recyclables collection costs and revenues shall be included in the Garbage collection rate and shall not be charged or itemized separately, except as directed at the City’s sole discretion. Commercial Customer and Multi-Family Complex Compostables services shall be itemized and charged separately. No surcharges (such as environmental or fuel surcharges) shall be added to invoices for Garbage, Recyclables or Compostables collection, including Commercial Recycling collection, unless specifically authorized in writing by the City.

The Contractor shall be responsible for the following:

- Generating combined Garbage, Recyclables and Compostables collection bills. Bills must include a statement indicating the Customer’s current service level, current charges and payments, and appropriate taxes and fees as well as the Contractor’s customer service contact information. Space shall be made available on bills for including City contact information at the City’s request.
- Accepting, processing and posting payment data each business day.
- Maintaining a system to monitor and report Customer subscription levels, record Extra Unit Garbage and Compostables collected, place an additional charge on the Customer’s bill for the excess collection, and charge for additional services requested and delivered. This system shall maintain a Customer’s historical account data for a period of not less than two years.

- Accepting and responding to Customer requests for service level changes, missed or inadequate collection services, and additional services.
- Collecting unpaid charges from Customers for collection services.
- Implementing rate changes as specified in Section 3.1 and 3.3.
- Including lines/space for customer service messages on Customer bills.
- Including Contractor phone numbers for customer service on Customer bills.
- The Contractor shall electronically notify the Customer of their invoice and then accept payment either through a pre-authorized autopay arrangement or a single-event credit card or debit payment feature on the Contractor's website. The Contractor shall not charge additional fees for credit or debit transactions. Customers may choose to use the autopay function, but retain paper billing, in which case no discount shall be provided.
- Manage published information so that all Customers in any grouping targeted for receipt of printed educational or outreach materials shall be included in Contractor's mass-mailings of such materials regardless of Customer's billing method status (such as web-based invoicing) or Customer's mail receipt method (such as use of a Post Office Box rather than standard curbside mail service).

The Contractor shall be required to have procedures in place to backup and minimize the potential for the loss or damage of the account servicing (customer service, service levels and billing history) database. The Contractor shall ensure that a daily backup of the account servicing database is made and securely stored off-site. The Contractor shall also provide the City with a copy of the customer service database via e-mail or other electronic medium on a quarterly basis. The City shall have unlimited rights to use the customer service database to develop targeted educational and outreach programs, analyze service level shifts or rate impacts, and/or to provide information to successor contractors.

Upon five (5) business days written notice, the Contractor shall provide the City with a paper and/or electronic copy at the City's discretion of the requested Customer information and history, including but not limited to Customer names, service and mailing addresses, contact information, service levels and current account status. City requests for information pertaining to five or fewer accounts shall be provided within one business day.

As set forth in detail below, the Contractor shall provide monthly and annual reports to the City. In addition, the Contractor shall allow the City access to pertinent operations information related to compliance with the obligations of this Contract, such as vehicle maintenance logs, disposal, Compostables and recycling facility certified weight slips, and Customer charges and payments.

2.3.3 Reporting

The Contractor shall provide monthly and annual reports to the City at no cost. In addition, the Contractor shall allow City staff access to pertinent operations information such as disposal facility certified weight slips and vehicle maintenance logs.

2.3.3.1 Monthly Reports

On a monthly basis, by the 15th of each month, the Contractor shall provide a report containing information for the previous month. Reports shall be submitted in electronic format approved by the City and shall be certified to be accurate by the Contractor. At a minimum, reports shall include:

- (1) A log of complaints and resolutions for all collection services and sectors. At a minimum, the complaint log shall include Customer name and/or business name, Customer's service address, contact telephone number, date of complaint, a description of the complaint, a description of how the complaint was resolved, the date of recovery/resolution and any additional driver's notes or comments. All Customer complaints and resolutions must be reported to the City without exception.
- (2) A tabulation of the number of single family, commercial and multi-family accounts by service level/Container size and service frequency.
- (3) A compilation of program participation statistics including: a summary of multi-family and commercial participation in recycling programs, set-out statistics for Residential Garbage, Compostables and Recyclables collection services, and log of bulky items.
- (4) A compilation of total monthly and year-to-date summaries of Garbage, Recyclables and Compostables quantities by collection sector.

- (5) A summary of Recyclables quantities by collection sector and by commodity, including processing residues disposed and market prices.
- (6) A summary of disposal or tipping facility locations and associated quantities for Garbage, Recyclables and Compostables as well as any changes in processing procedures, locations or tipping fees.
- (7) A description of any vehicle accidents infractions, or insurance claims against Contractor.
- (8) A description of any changes to collection routes, Containers, vehicles (including the identification of back-up vehicles not meeting contract standards with the truck number and date of use), customer service or other related activities affecting the provision of services; and
- (9) Call Center performance as outlined in Section 2.3.2.2.

If collection vehicles are used to service more than one Customer sector or jurisdiction, the Contractor shall develop an apportioning methodology that allows the accurate calculation and reporting of collection quantities. The apportioning methodology shall be subject to prior review and approval by the City and shall be periodically verified through field testing by the Contractor.

2.3.3.2 Annual Reports

On an annual basis, by the last working day of January, the Contractor shall provide an electronic report containing the following information:

- (1) A consolidated summary and tabulation of the monthly reports, described above.
- (2) A discussion of highlights and other noteworthy experiences, along with measures taken to resolve problems, increase efficiency, and increase participation in Compostables and Recyclables collection programs.
- (3) A discussion of promotion and education efforts and accomplishments.

- (4) An inventory of current collection, delivery, spare and other major equipment, including make, model, year, and accumulated miles.
- (5) A list of multi-family and commercial recycling sites pursuant to Section 2.3.5.

2.3.3.3 Ad Hoc Reports

The City may request from the Contractor up to six (6) ad-hoc reports each year, at no additional cost to the City. These reports may include customer service database tabulations to identify specific service level or participation patterns or other similar information. Reports shall be provided in the City-defined format and software compatibility. These reports shall not require the Contractor to expend more than one hundred (100) staff hours per year to complete.

If requested by the City, the Contractor shall provide daily route information for all service sectors and collection streams for the purpose of evaluating potential collection system changes during the term of the Contract. Information received by the City and in the Contractor's possession shall be subject to existing laws and regulations regarding disclosure, including the *Public Records Act*, Chapter 42.56 RCW and shall be subject to the provisions of Section 6.8 below.

2.3.4 Promotion and Education

The Contractor shall have primary responsibility for providing service-oriented information and outreach to Customers and implementing ongoing recycling promotion, at the direction of the City. The Contractor shall also incorporate general waste reduction, minimization and reuse elements in to its promotion and education program.

The Contractor shall maintain a complete list of all Multi-Family Complex sites within the City Service Area, and the status of each site's participation in Contractor-provided services. The Contractor shall annually contact, by telephone or site visit, the manager or owner of each site to encourage participation and inform the manager or owner of all available services and ways to decrease Garbage generation. Printed informational materials discussing waste prevention and recycling service options shall be prepared and distributed to support contact with Multi-Family Complex and Commercial Customer sites. This contact shall be coordinated with City and King County promotional efforts. The Contractor shall include with its annual report the list of Multi-Family Complex and Commercial Customer sites; Garbage, recycling and Compostables status; Container sizes, service

frequency, and types; Customer contact dates and outcome of such contacts; and suggestions for increasing participation or other program improvements.

The Contractor shall keep the public informed of programs and encourage participation through an annual service update. Each fall, the Contractor shall provide an annual service update for each service sector, the format, content and timeframe of which shall be subject to prior review and approval by the City. The annual service update shall be mailed to all Customers and, at a minimum, shall include an informational brochure indicating rates, all services available, preparation and other service requirements, contact information, inclement weather and other policies, a collection schedule calendar applicable to each recipient's routes and other useful Customer information.

The Contractor shall develop, print, periodically update and maintain sufficient quantities of new Customer information materials, the format and content of which shall be subject to prior review and approval by the City. Upon approval, materials shall be mailed to every new Customer prior to the Customer's first billing and shall, at a minimum, include a statement of applicable rules and service policies, rates, services and preparation requirements, collection days in calendar format, Contractor customer service information and City contact information. Contractor's materials shall be TTY accessible and Contractor shall provide alternative language formats upon request.

The Contractor's welcome packet and annual service update may be e-mailed to Customers instead of paper materials, upon Customers' request.

The Contractor shall permit the City to insert, at no charge, single-sheet information bulletins into Customer bills. When the insert is beyond one page and increases Contractor cost, the City shall pay the incremental difference. The City and Contractor shall work cooperatively for timely inclusion of such materials.

2.3.5 Field Monitoring

The City may periodically monitor collection system parameters such as participation, Container condition, Container weights, waste composition and Customer satisfaction. The Contractor shall assist the City by coordinating the Contractor's operations with the City's field monitoring to minimize inconvenience to Customers, the City and the Contractor.

2.3.6 Transition to Next Contractor

The Contractor shall be expected to work with the City and any successive contractor(s) in good faith to ensure a minimum of Customer disruption during the transition period. Container removal and replacement shall be

coordinated between the Contractor and a successive contractor to occur simultaneously in order to minimize Customer inconvenience.

The Contractor shall provide a detailed updated Customer list, including Customer name, service address, mailing address, and collection and Container rental service levels to the successive contractor within seven (7) days request of the City.

The parties recognize that a failure to comply with this provision will damage the City, but that determination of such damage will be difficult and burdensome; therefore, the parties agree that in the event of a breach of this provision the Contractor, or the Contractor's surety, shall pay the City one hundred thousand dollars (\$100,000.00) for the material breach of this contract provision. Payment shall be made within twenty (20) business days of the end of this contract.

3. COMPENSATION

3.1 Compensation to the Contractor

3.1.1 Rates

The Contractor shall be responsible for billing and collecting funds from Single-Family Residence, Multi-Family Complex and Commercial Customers in accordance with the charges for services listed in Attachment B. The Contractor may reduce or waive at its option, but shall not exceed, the charges listed in Attachment B. The Contractor shall charge Drop-box Customers the actual disposal cost plus ten (10) percent to reflect the Contractor's costs and margin related to handling the pass-through disposal component of that service. These payments shall comprise the entire compensation due to the Contractor. In no event shall the City be responsible for money that the Contractor, for whatever reason, is unable to collect.

Senior low-income and/or disabled resident discounts of fifty percent (50%) shall be offered to Single-family Residential Customers meeting the City's eligibility criteria. The City shall provide the Contractor with a list of eligible accounts and shall update the list as revisions are made.

3.1.2 Itemization on Invoices

City, King County and Washington State solid waste, utility and/or sales taxes shall be itemized separately on Customer invoices and added to the charges listed in Attachment B. The Contractor shall not charge separately for the collection of Source-Separated Recyclables. The City Franchise Fee shall not be itemized separately on Customer invoices.

3.1.3 Discontinuing Service for Nonpayment

The Contractor may use any legal means, including appropriate lien rights, to enforce Customer payment obligations and may discontinue service to non-paying Customers provided that such Customers are provided with ten (10) days prior written notice that service will be discontinued for non-payment. The Contractor may charge a one-time twenty dollar (\$20.00) cart redelivery fee to Customers who want to restart service who have previously had their service terminated for nonpayment and had carts removed. The cart redelivery fee shall be applied as a flat charge, regardless of the number of carts delivered (e.g. Garbage, Recyclables and Compostables).

3.2 Compensation to the City

The Contractor shall pay to the City a one-time fee of thirty thousand dollars (\$30,000.) upon Contract execution to cover City staff and consultant costs for procuring this Contract.

The Contractor shall also pay to the City a Franchise Fee on or before the fifteenth (15th) day of each month during the term of this Contract, starting on July 15, 2014. The franchise fee shall be based on all Contractor receipts posted since the last Franchise Fee payment (or start of the Contract in the case of the initial Franchise Fee payment), excluding Drop-box disposal fees. The initial Franchise Fee shall be assessed at five and three-tenths percent (5.3%) of gross revenues posted by the Contractor since the last Franchise Fee payment period. The Contractor's obligations to pay the Franchise Fee shall extend past the termination date of this Contract until the Contractor is no longer receiving payments from Customers for services provided under this Contract.

The rates included in Attachment B, as modified during the term of this Contract, include the Franchise Fee and Customers shall not be separately charged an itemized Franchise Fee. Attachment B contains an example of how the Franchise Fee is included in rates, and lists the Contractor's service rate, the amount collected by the Contractor on behalf of the City, the State excise tax associated with the Franchise Fee (if applicable), and the combined retail rate charged to the Customer. Any adjustments to the Franchise Fee rate shall be calculated in a manner consistent with the example shown in Attachment B.

The Contractor shall fully participate with any City billing audit to confirm the Contractor's actual receipts during any accounting period during the term of the Contract. The audit shall be confined to confirming customer billing rates, Contractor receipts for services provided under this Contract, and bad debt recovery.

The City and Contractor shall work together to clarify the applicability of State excise (B&O) tax to the Franchise Fee rate component collected on behalf of the City. In

the event that the City's Franchise Fee component is exempt from excise tax, the Contractor shall reduce Customer rates by the excise tax amount shown in Attachment B.

The Franchise Fee may be changed by the City in any year, provided that the change is synchronized with the annual Contractor rate modification described in Section 3.3. The City shall notify the Contractor of the new Franchise Fee rate for the following year by September 1st, and the Contractor shall itemize and include the appropriate adjustment in its Rate Adjustment Statement provided October 1st of each year. In the event that the Franchise Fee is adjusted, either up or down, the Contractor shall add or subtract an amount equivalent to the state excise tax (1.5% at the time of Contract execution), if applicable, as may be adjusted from time to time by the State of Washington.

In addition, the Contractor shall be responsible for payment of all applicable permits, licenses, fees and taxes as described in Section 6.13, Permits and Licenses.

3.3 Compensation Adjustments

3.3.1 Annual Rate Adjustment

The Contractor's collection service charges, excluding waste disposal fees, for each level of service shall increase or decrease once every year by seventy-five percent (75%) of the change in the Consumer Price Index CWURA423SAO for the Seattle-Tacoma-Bremerton Metropolitan Area for Urban Wage Earners and Clerical Workers, all items (Revised Series) (CPI-W 1982-1984) prepared by the United States Department of Labor, Bureau of Labor Statistics, or a replacement index (the "CPI Index").

Adjustments to the Contractor's collection service charge shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when making adjustments.

Rates shall be adjusted annually, beginning January 1, 2016 (the "Adjustment Date"). The Contractor shall submit to the City for review and approval a Rate Adjustment Statement, calculating the new rates for the next year, by calculating the percentage change in the CPI Index for the most recent twelve (12) month period ending on June 30th. The Contractor's calculations shall be provided to the City no later than October 1st prior to the Adjustment Date and the City shall have thirty (30) days to confirm the Contractor's rate modification calculations. On City approval, which shall not be unreasonably withheld or delayed, the new rates shall take effect on January 1st of the next year, and Customers shall be notified in November, at least forty-five (45) days prior to the date adjusted rates become effective. Should ratepayers not receive timely notification due to missed deadlines, rate calculation errors by the Contractor, or rate disapproval by the City, implementation of the new

rates shall be delayed by one month without opportunity for recovery of lost revenue.

3.3.2 Disposal Fee Adjustments

Disposal Fee adjustments shall be made to Contractor collection rates to reflect increases or decreases in King County disposal fees for solid waste. In the event of a change in disposal fees, the disposal fee component of rates charged to Customers shall be adjusted, based on Container content weights specified in Attachment B of this Contract.

Specific examples of rate modifications due to Consumer Price Index and disposal fee changes are provided in Attachment D.

3.3.3 Changes in Disposal/Processing Sites and Tipping Fees

The Contractor assumes all risk for the processing and marketing of Recyclables and Compostables. If the Contractor is required by the City to use processing sites or markets other than those being used at the initiation of this Contract, the Contractor may submit a detailed proposal for a rate adjustment to reflect any additional costs or savings to the Contractor. The City and Contractor agree to negotiate in good faith any changes to the rates to offset these costs or savings.

3.3.4 Other Modifications

The Contractor shall not adjust or modify rates due to employee wage increases, the value of Recyclables, Garbage collection service level shifts, or other changes affecting the collection system. At the time of the City's decision to extend this Contract through invoking contract extension options, the Contractor can present a request for relief for any adverse market changes that have occurred during the previous period of the Contract. The City is under no obligation to give consideration for those adverse changes as a condition for invoking the contract extension option.

If new City, King County, Washington State or Federal taxes are imposed or the rates of existing taxes are changed after the execution date of this Contract, and the impact of these changes results in increased or decreased Contractor costs in excess of five thousand dollars (\$5,000) annually, the Contractor and City shall enter into good faith negotiations to determine whether compensation adjustments are appropriate for the amount in excess of the five thousand dollar (\$5,000) threshold and if so, to determine the amount and the method of adjustment. Any adjustment in Contractor charges will coincide with the annual rate adjustment process described in this Section 3.3.

3.4 Change in Law

Changes in federal, state or local laws or regulations or a continuing Force Majeure event that results in a detrimental change in circumstances or a material hardship for the Contractor in performing this Contract may be the subject of a request by the Contractor for a rate adjustment, subject to review and approval by the City, at the City's reasonable discretion. If the City requires review of the Contractor's financial or other proprietary information in conducting its rate review, at the request of the Contractor, the City shall retain a third-party to review such information at the Contractor's expense, and may take any other steps it deems appropriate to protect the confidential nature of the Contractor's documents and preserve the Contractor's ongoing ability to remain competitive.

4. FAILURE TO PERFORM, REMEDIES, TERMINATION

The City expects high levels of Customer service and collection service provision. Performance failures shall be discouraged, to the extent possible, through automatic performance fees for certain infractions and through Contract default for more serious lapses in service provision. Section 4.1 details infractions subject to automatic or performance fees, and Section 4.2 details default provisions and procedures.

4.1 Performance Fees

The Contractor may be subject to performance fees for the following acts or omissions if documented in an incident report presented by the City to the Contractor. The City reserves the right to make periodic, unscheduled inspection visits or use other means to determine the Contractor's compliance with the Contract. Deductions for misses will not be applied for collections prevented by weather or holiday rescheduling during the first week of the disruption. Performance fees are as follows:

| ACTION OR OMISSION | AMOUNT |
|--|--|
| Collection before or after the times specified in Section 2.1.4, except as expressly permitted by the City. | Two Hundred Fifty Dollars (\$250) per truck route (each truck on each route is a separate incident). |
| Repetition of complaints on a route after notification, including, but not limited to, failure to replace Containers in designated locations, spilling, not closing gates, not replacing lids, use of profanity, creation of excessive noise, collection of Commercial Containers in Residential areas outside hours specified herein for Residential areas, crossing or driving over planted areas, observed reckless driving, or similar violations. | Twenty-Five dollars (\$25) per incident, not to exceed thirty (30) complaints per truck per day. |

| ACTION OR OMISSION | AMOUNT |
|---|---|
| Failure to collect spilled materials. | Twice the cost of cleanup to the City or King County, plus Five Hundred Dollars (\$500) per incident. |
| Failure to maintain placards on service vehicles as required by Section 2.1.14. | Two Hundred Fifty Dollars (\$250) per vehicle, per day. |
| Curable Leakage from Contractor vehicles or vehicle contents, observed by the City, its agents or photographed by Customers. | Two Hundred Fifty Dollars (\$250) per vehicle, per day, plus clean up costs. |
| Failure to collect missed materials within one (1) business day after notification. | One Hundred Dollars (\$100) per incident to a maximum of Five Hundred Dollars (\$500) per truck per day on Single-Family Residence routes and no maximum for Multi-Family Complex and Commercial Customer routes. |
| Missed collection of entire block segment of Single-Family Residences (excluding collections prevented by inclement weather). | One Hundred Fifty Dollars (\$150) per block segment if collection is performed the following day; Five Hundred Dollars (\$500) if not collected by the following day. |
| Collection as Garbage or disposal as Garbage of Source-Separated Recyclables or Compostables in clearly identified Containers, bags or boxes. | One Hundred Dollars (\$100) per incident, up to a maximum of One Thousand Dollars (\$1,000) per truck, per day. |
| Collection of Garbage containing visible quantities of Yard Debris. | Twenty-Five Dollars (\$25) per incident. |
| Rejection of Garbage, Recyclables or Yard Debris without providing documentation to the Customer of the reason for rejection. | Twenty-Five Dollars (\$25) per incident. |
| Failure to deliver Detachable Containers to new Commercial Customers within three (3) business days. | Fifty Dollars (\$50) per Container per day. |
| Failure to deliver carts, Detachable Containers, or Drop-Box Containers within three (3) business days of request to Multi- | Fifty Dollars (\$50) per Container per day. |

| ACTION OR OMISSION | AMOUNT |
|---|--|
| Family Complex or Commercial Customers. | |
| Failure to deliver Garbage, Recycling or Compostables Carts within seven (7) days of request to Single-Family Residence Customers. | Fifteen Dollars (\$15) per Container per day. |
| Delivery or use of incorrectly labeled or colored Container. | Twenty-five Dollars (\$25) per Container per day. |
| Substantial misrepresentation by Contractor in records or reporting. | Five Thousand Dollars (\$5,000) per incident. |
| Failure to provide required reports on time. | Two Hundred Fifty Dollars (\$250) per incident. |
| Failure to maintain clean, graffiti-free and sanitary inventory of Containers distributed to Customers, vehicles, and facilities. | Fifty Dollars (\$50) per incident, up to maximum of One Thousand Dollars (\$1,000) per inspection. |
| Landfilling or incineration of Recyclables or Compostables in violation of Section 2.1.11 without the express written permission of the City. | One Thousand Dollars (\$1,000) per vehicle, per incident. |
| Failure to meet recycling processing performance requirements of Section 2.1.11. | One Thousand Dollars (\$1,000) per month, for any occurrence during that month. |
| Failure to meet customer service ring and on-hold time performance customer service requirements more than twelve weeks out of a rolling twelve month period. | Two Hundred Fifty Dollars (\$250) per week. |
| Failure to include instructional/promotional materials when Garbage, Recycling and/or Compostables Carts are delivered. | Fifty Dollars (\$50) per incident. |

The parties acknowledge the difficulty in anticipating actual damages to remedy the damage. The parties further agree that the performance fees listed in this Section represent a reasonable estimate of the loss likely to result from the remedy for the damage.

Nothing in this Section shall be construed as providing an exclusive list of the acts or omissions of the Contractor that shall be considered violations or breaches of the Contract and, except for those listed breaches set forth above, the City reserves the right to exercise any and all remedies it may have with respect to these and other violations and breaches. The performance fees schedule set forth here shall not affect the City's ability to terminate this Contract as described in Section 4.2.

Performance fees, if assessed during a given month, shall be invoiced by the City to the Contractor. Performance fees may be levied only if documented in an incident report presented by the City to the Contractor. Performance fees shall only be assessed after the Contractor has been given the opportunity, but has failed to rectify the deficiencies of which it has been notified. The Contractor shall pay the City the invoiced amount within thirty (30) days of billing. Failure to pay performance fees shall be considered a breach of this Contract.

Any performance fees imposed under this Section may be appealed by the Contractor to the City. The Contractor shall be allowed to present evidence as to why the amount of performance fees should be lessened or eliminated. The decision of the City shall be final.

4.2 Contract Default

The Contractor shall be in default of this Contract if it violates any provision of this Contract. In addition, the City reserves the right to declare the Contractor to be in default in the event of any violation, which shall include, but not be limited to, the following:

- (1) The Contractor fails to commence the collection of Garbage, Recyclables or Compostables, or fails to provide any portion of service under the Contract on June 1, 2014 or for a period of more than five (5) consecutive days at any time during the term of this Contract.
- (2) The Contractor fails to obtain and maintain any permit required by the City, King County, or any federal, state or other regulatory body in order to collect materials under this Contract.
- (3) The Contractor's noncompliance creates a hazard to public health or safety.
- (4) The Contractor repeatedly or persistently acts or fails to act in a manner that is subject to performance fees in excess of ten thousand dollars (\$10,000.00) during any consecutive twelve (12) month period.
- (5) The Contractor fails to maintain, in good standing, surety and insurance required by this Contract.

The City reserves the right to pursue any remedy available at law for any default by the Contractor. In the event of default, the City shall give the Contractor ten (10) days prior written notice of its intent to exercise its rights, stating the reasons for such

action. However, if an emergency shall arise that does not allow ten (10) days prior written notice, the City shall immediately notify the Contractor of its intent to exercise its rights immediately. If the Contractor cures the stated reason within the stated period, or initiates efforts satisfactory to the City to remedy the stated reason and the efforts continue in good faith, the City may opt to not exercise its rights for the particular incident. If the Contractor fails to cure the stated reason within the stated period, or does not undertake efforts satisfactory to the City to remedy the stated reason, then the City may at its option terminate this Contract.

If the Contractor abandons or violates any portion of this Contract, fails to fully and promptly comply with all its obligations, or fails to give any reason satisfactory to the City for noncompliance, and fails to correct the same, the City, after the initial ten (10) days notice, may declare the Contractor to be in default of this Contract and notify the Contractor of the termination of this Contract. A copy of said notice shall be sent to the Contractor and surety on its performance bond.

Upon receipt of such notice, the Contractor agrees that it shall promptly discontinue the services provided under this Contract. The surety may, at its option, within ten (10) days from such written notice, assume the services provided under this Contract that the City has ordered discontinued and proceed to perform same, at its sole cost and expense, in compliance with the terms and conditions of the Contract, and all documents incorporated herein. Pending consideration by the surety of said option to assume the services provided under this Contract, the City may employ such work force and equipment as it may deem advisable to continue the services provided under this Contract. The cost of all labor, equipment and materials necessary for such services provided under this Contract shall be paid by the Contractor in full.

In the event that the surety fails to exercise its option within the ten (10) day period, the City may complete the services provided under this Contract or any part thereof, either through its own work force or by contract, and to procure other vehicles, equipment and facilities necessary for the completion of the same, and to charge the same to the Contractor and/or surety, together with all reasonable costs incidental thereto.

The City shall be entitled to recover from the Contractor and its surety as damages all expenses incurred, including reasonable attorney's fees, together with all such additional sums as may be necessary to complete the services provided under this Contract, together with any further damages sustained or to be sustained by the City.

If City employees provide Garbage, Compostables and/or Recyclables collection, the actual incremental costs of City labor, overhead and administration shall serve as the basis for a charge to the Contractor.

5. NOTICES

All notices required or contemplated by this Contract shall be personally served or mailed (postage prepaid and return receipt requested), addressed to the parties as follows:

To City: Director of Public Works
 City of SeaTac
 4800 S. 188th Street
 SeaTac, WA 98188

To Contractor: CleanScapes, Inc.
 117 South Main Street, Suite 300
 Seattle, WA 98104

6. GENERAL TERMS

6.1 Collection Right

The Contractor shall be the exclusive provider with which the City shall contract to collect Garbage, Compostables and Recyclables and construction/demolition materials placed in Contractor-owned Containers and set out in the regular collection locations within the City Service Area. When asked by the Contractor, the City shall make a good faith effort to protect this right of the Contractor; however, the City shall not be obligated to join or instigate litigation to protect the right of the Contractor. The Contractor may independently enforce its rights under this Contract against third party violators, including but not limited to seeking injunctive relief, and the City shall use good faith efforts to cooperate in such enforcement actions brought by Contractor (without obligating the City to join any such litigation). Such efforts may include but not be limited to cease and desist letters, assistance with documenting violations and other activities as City staff time allows.

This contract provision will not apply to: Garbage, Recyclables or Compostables self-hauled by the generator; Source-Separated Recyclables hauled by common or private carriers (including drop-off recycling sites) from Commercial premises that contain at least ninety percent (90%) recyclable materials; construction/demolition waste hauled by self-haulers or construction contractors in the normal course of their business; Garbage, Recyclables or Compostables handled by retailers or maintenance services who provide ancillary services unrelated to Curb collection services (e.g. carpet installers, furniture delivery/pick-up, site clean-up services which include loading/sweeping, etc.); Compostables generated and hauled by private landscaping services; or Compostables hauled by common or private carriers from Commercial premises that contain at least ninety percent (90%) Compostable materials.

The Contractor shall retain responsibility for Garbage, Recyclables, construction/demolition materials and Compostables once these materials are placed in Contractor-owned Containers and the Contractor shall have no responsibility for these materials prior to the time they are placed in Contractor-owned Containers. The

Contractor shall retain revenues it gains from the sale of Recyclables, construction/demolition materials or Compostables. Likewise, a tipping or acceptance fee charged for Recyclables, construction/demolition materials or Compostables shall be the financial responsibility of the Contractor.

The City shall work with the Contractor, other haulers and processors, and other regional governments to develop a reasonable definition of what constitutes legitimate construction/ demolition recycling for the purposes of interpreting collection authorities. Once a reasonable recycling threshold or "test" is developed with King County, the City and Contractor shall negotiate and amend this Agreement accordingly.

6.2 Access to Records

The Contractor shall maintain in its local office full and complete operations, Customer, financial and service records that at any reasonable time shall be open for inspection and copying for any reasonable purpose by the City. In addition, the Contractor shall, during the Contract term, and at least five (5) years thereafter, maintain in an office in Washington State reporting records and billing records pertaining to the Contract that are prepared in accordance with Generally Accepted Accounting Principles, reflecting the Contractor's services provided under this Contract. Those Contractor's accounts shall include but shall not be limited to all records, invoices and payments under the Contract, as adjusted for additional and deleted services provided under this Contract. The City shall be allowed access to these records for audit and review purposes.

The Contractor shall make available copies of certified weight slips for Garbage, Recyclables and Compostables on request within two (2) business days of the request. The weight slips may be requested for any period during the term of this Contract.

The Contractor shall allow the City to interview any person and to review any evidence in the Contractor's possession or control that may assist the City in determining whether and by what amount: (1) the Contractor is entitled to reimbursement or increased rates under the contract; (2) the City is entitled to a reduction in rates under the contract; or (3) the Contractor is in compliance with the contract.

6.3 Contractor to Make Examinations

The Contractor has made its own examination, investigation and research regarding proper methods of providing the services required under this Contract, and all conditions affecting the services to be provided under this Contract, and the labor, equipment and materials needed thereon, and the quantity of the work to be performed as set forth by the Contract. The Contractor agrees that it has satisfied itself based on its own investigation and research regarding all of such conditions, that its conclusion to enter into this Contract is based upon such investigation and research, and that it shall make no claim against the City because of any of the

estimates, statements or interpretations made by any officer or agent of the City that may be erroneous.

With the exception of Force Majeure events or as otherwise provided in this Contract, the Contractor assumes the risk of all conditions foreseen and unforeseen, and agrees to continue to provide services under this Contract without additional compensation under whatever circumstances may develop other than as provided herein.

6.4 Insurance

The Contractor shall procure and maintain, for the duration of the Contract, insurance against claims for injuries to persons or damage to property that may arise from or in connection with the performance of the services provided under this Contract hereunder by the Contractor, their agents, representatives, employees or subcontractors. The cost of such insurance shall be paid by the Contractor. Failure to make insurance payments and to keep policies current shall be cause for contract default in accordance with Section 4.2.

No Limitation. Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

6.4.1 Minimum Scope of Insurance

Contractor shall obtain insurance that meets or exceeds the following of the types 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. The policy shall include coverage for insured contracts. The City shall be named as an additional insured under the Contractor's Automobile Liability insurance policy with respect to the work performed for the City, using ISO additional insured endorsement CG 20 48 02 99 or a substitute endorsement providing equivalent coverage.
- (2) Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate per Project Endorsement ISO form CG 25 03 11 85 or equivalent. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured

under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City, using ISO additional insured endorsement CG 20 10 11 85 or a substitute endorsement providing equivalent coverage.

- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Pollution Legal Liability insurance covering losses caused by pollution conditions that arise during transport.
- (5) Hazardous Waste Hauling. To the Automobile Liability Minimum Scope of Insurance, add Pollution Liability coverage at least as broad as that provided under ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement CA 99 48 and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

6.4.2 Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

- (1) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.
- (2) Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- (3) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- (4) Pollution Legal Liability The Pollution Legal Liability insurance shall be written in an amount of at least \$3,000,000 per loss, with an annual aggregate of at least \$3,000,000. Coverage may be written on a claims-made basis.

6.4.3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions shall be for the Contractor's accounts and shall be paid entirely by the Contractor without contribution from the City.

6.4.4 Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Commercial General Liability, and Contractor's Pollution Liability coverage:

- (1) The Contractor's insurance coverage shall be the primary insurance with respect to the City, its officials, employees and volunteers. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it.
- (2) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (3) The Contractor's insurance shall be endorsed to state that coverage shall not be cancelled, except after thirty (30) days prior written notice has been given to the City.

6.4.5 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VIII.

6.4.6 Verification of Coverage

The Contractor shall furnish the City with original certificates including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

6.4.7 Subcontractors

The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor before commencement of the work. All coverages for subcontractors shall be subject to all of the same insurance requirements as stated herein for the Contractor.

6.5 Performance Bond

The Contractor shall provide and maintain at all times a valid Contractor's Performance and Payment Bond or bonds, letter of credit or other similar instrument acceptable to and approved in writing by the City in the amount of five hundred thousand dollars (\$500,000.00). The bond, letter of credit or other similar instrument shall be issued for a period of not less than one year, and the Contractor shall provide a new bond, letter of credit or similar instrument, and evidence satisfactory to the City of its renewability, no less than sixty (60) calendar days prior to the expiration of the bond, letter of credit or other similar instrument then in effect. The City shall have

the right to call the bond, letter of credit or other similar instrument in full in the event its renewal is not confirmed prior to five (5) calendar days before its expiration. Failure to make bond payments and to keep the bond current shall be cause for contract default in accordance with Section 4.2.

6.6 Indemnification

6.6.1 Indemnify and Hold Harmless

The Contractor shall indemnify, hold harmless and defend the City, its elected officials, officers, employees, volunteers, agents and representatives, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, including costs and attorney's fees in defense thereof, or injuries, sickness or death to persons, or damage to property, which is caused by or arises out of the Contractor's exercise of duties, rights and privileges granted by the Contract, except for injuries or damages caused by the City's sole negligence.

6.6.2 Notice to Contractor; Defense

In the event an action is brought against the City for which indemnity may be sought against the Contractor, the City shall promptly notify the Contractor in writing. The Contractor shall have the right to assume the investigation and defense, including the employment of counsel and the payment of all expenses. On demand of the City, the Contractor shall at its own cost and expense defend, and provide qualified attorneys acceptable to the City under service contracts acceptable to the City to defend, the City, its officers, employees, agents and servants against any claim in any way connected with the events described in Section 6.6.1. The City shall fully cooperate with the Contractor in its defense of the City, including consenting to all reasonable affirmative defenses and counterclaims asserted on behalf of the City. The City may employ separate counsel and participate in the investigation and defense, but the City shall pay the fees and costs of that counsel unless the Contractor has agreed otherwise. The Contractor shall control the defense of claims (including the assertion of counterclaims) against which it is providing indemnity under this Section, and if the City employs separate counsel the City shall assert all defenses and counterclaims reasonably available to it.

6.6.3 Industrial Insurance Immunity Waiver

With respect to the obligations to hold harmless, indemnify and defend provided for herein, as they relate to claims against the City, its elected officials, officers, employees, volunteers, agents and representatives, the Contractor agrees to waive the Contractor's immunity under industrial insurance, Title 51 RCW, for any injury, sickness or death suffered by the

Contractor's employees that is caused by or arises out of the Contractor's negligent exercise of rights or privileges granted by the Contract. This waiver is mutually agreed to by the parties.

6.7 Payment of Claims

The Contractor agrees and covenants to pay promptly as they become due all just claims for labor, supplies and materials purchased for or furnished to the Contractor in the execution of this contract. The Contractor shall also provide for the prompt and efficient handling of all complaints and claims arising out of the operations of the Contractor under this contract.

6.8 Confidentiality of Information

Under Washington State law, the documents (including but not limited to written, printed, graphic, electronic, photographic or voice mail materials and/or transcriptions, recordings or reproductions thereof) prepared in performance of this Contract (the "documents") and submitted to the City are public record subject to mandatory disclosure upon request by any person, unless the documents are exempted from public disclosure by a specific provision of law.

If the City receives a request for inspection or copying of any such documents, it shall promptly notify the Contractor at the notice address set forth in Section 5 herein and shall give the Contractor ten (10) working days from the date of the mailing of such notice to obtain an injunction prohibiting or conditioning the release of the documents. The City assumes no contractual obligation to enforce any exemption.

6.9 Assignment of Contract

6.9.1 Assignment or Pledge of Moneys by the Contractor

The Contractor shall not assign or pledge any of the moneys due under this Contract without securing the written approval of the surety on the performance bond and providing at least thirty (30) calendar days prior notice to the City of such assignment or pledge together with a copy of the surety's approval thereof. Such assignment or pledge, however, shall not release the Contractor or its sureties from any obligations or liabilities arising under or because of this Contract.

6.9.2 Assignment, Subcontracting, Delegation of Duties and Change in Control

The Contractor shall not assign or subcontract any of the work or delegate any of its duties under this Contract without the prior written approval of the City and submittal of proof of insurance coverage.

When requested, approval by the City of a subcontract or assignment shall not be unreasonably withheld. In the event of an assignment, subcontracting or delegation of duties, the Contractor shall remain

responsible for the full and faithful performance of this Contract and the assignee, subcontractor, or other obligor shall also become responsible to the City for the satisfactory performance of the work assumed. The City may condition approval upon the delivery by the assignee, subcontractor or other obligor of its covenant to the City to fully and faithfully complete the work or responsibility undertaken.

In addition, the assignee, subcontractor or obligor shall sign a separate statement agreeing to abide by all terms and conditions of this Contract. The City may terminate this Contract if the assignee, subcontractor or obligor does not comply with this clause. Furthermore, the assignee, subcontractor or obligor shall be subject to a one (1) year evaluation period during which the City may terminate this Contract on the basis of any material breaches of the terms binding the Contractor.

For the purposes of this contract, any Change in Control of the Contractor shall be considered an assignment subject to the requirements of this section. Nothing herein shall preclude the City from executing a novation, allowing the new ownership to assume the rights and duties of the contract and releasing the previous ownership of all obligations and liability. Assignment of this Contract to a subsidiary or affiliate of the Contractor shall not require the City's consent.

6.10 Laws to Govern/Venue

This Contract shall be governed by the laws of the State of Washington both as to interpretation and performance. Venue shall be in Superior Court in the State of Washington for King County.

6.11 Compliance With Law

The Contractor, its officers, employees, agents and subcontractors shall comply with applicable federal, state, county, regional or local laws, statutes, rules, regulations or ordinances, including those of agencies having jurisdiction over the subject matter of this Contract, in performing its obligations under the Contract. Such compliance shall include abiding by all applicable federal, state and local policies to ensure equal employment opportunity and non-discrimination. The Contractor shall comply with all applicable laws pertaining to employment practices, employee treatment and public contracts.

Conditions of the Federal Occupational Safety and Health Act of 1970 (OSHA), the Washington Industrial Safety and Health Act of 1973 (WISHA), and standards and regulations issued under these Acts from time-to-time must be complied with, including ergonomic and repetitive motion requirements. The Contractor must indemnify and hold harmless the City from all damages assessed for the Contractor's failure to comply with the Acts and Standards issued therein. The Contractor is also responsible for meeting all pertinent local, state and federal health and environmental

regulations and standards applying to the operation of the collection and processing systems used in the performance of this Contract.

The Contractor is specifically directed to observe all weight-related laws and regulations in the performance of these services, including axle bridging and loading requirements.

6.12 Non-Discrimination

The Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, any required notices setting forth the provisions of this non-discrimination clause.

The Contractor understands and agrees that if it violates this non-discrimination provision, this Contract may be terminated by the City and further that the Contractor shall be barred from performing any services for the City now or in the future, unless a showing is made satisfactorily to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

6.13 Permits and Licenses

The Contractor and subcontractors shall secure a City business license if required and pay fees and taxes levied by the City. The Contractor shall have or obtain all permits and licenses necessary to provide the services herein at its sole expense.

The Contractor shall be solely responsible for all taxes, fees and charges incurred, including, but not limited to, license fees and all federal, state, regional, county and local taxes and fees, including income taxes, property taxes, permit fees, operating fees, surcharges of any kind that apply to any and all persons, facilities, property, income, equipment, materials, supplies or activities related to the Contractor's activities under the Contract, business and occupation taxes, workers' compensation and unemployment benefits.

6.14 Relationship of Parties

The City and the Contractor expressly agree that the full extent of the relationship between the Contractor and the City is that the Contractor is at all times an independent contractor of the City with respect to this Contract. The implementation

of services shall lie solely with the Contractor. No agent, employee, servant or representative of the Contractor shall be deemed to be an employee, agent, servant or representative of the City.

6.15 Contractor's Relationship with Customers

The Contractor shall not separately contract with Customers for any services covered under this contract. The Contractor is specifically allowed to negotiate separate agreements with Customers for compactor leasing, Commercial Recyclables collection, Commercial Compostables collection, or other related services not included in this contract, provided that Customers are provided separate invoices for those services and that the Contractor makes it clear to Customers that those services are not provided under this City contract. These separate agreements must be in writing and shall in no way supersede this contract. These separate agreements cannot have durations any longer than the final date of this contract's term, since the City may, at its sole option, regulate similar or identical services in the successor to this contract.

6.16 Bankruptcy

It is agreed that if the Contractor is adjudged bankrupt, either voluntarily or involuntarily, then this Contract, at the option of the City, may be terminated effective on the day and at the time the bankruptcy petition is filed.

6.17 Right to Renegotiate/Amendment

The City shall retain the right to renegotiate this Contract or negotiate contract amendments based on City policy changes, state statutory changes or rule changes in King County, Washington State or federal regulations regarding issues that materially modify the terms and conditions of the Contract. The City may also renegotiate this Contract should any Washington State, King County or City rate or fee associated with the Contract be held illegal or any increase thereof be rejected by voters. In addition, the Contractor agrees to renegotiate in good faith with the City in the event the City wishes to change disposal locations or add additional services to the Contract and to provide full disclosure of existing and proposed costs and operational impacts of any proposed changes.

This Contract may be amended, altered or modified only by a written amendment, alteration or modification, executed by authorized representatives of the City and the Contractor.

6.18 Incorporation of Contractor's Proposal in Response to City's RFP

The Contractor's proposal, dated June 3, 2013, submitted in response to the City's Request for Proposals, is incorporated by reference, including but not limited to collection vehicle types, customer service staffing and approach, processing abilities and other commitments made in the Contractor's proposal and all associated clarifications and supplemental proposal materials. In the case of conflict between

the Contractor's proposal and this Contract, the provisions of this Contract shall prevail. The City may approve changes to vehicle and Container make, model and specifications at the City's discretion.

6.19 Force Majeure

Provided that the requirements of this Section are met, Contractor shall not be deemed to be in default and shall not be liable for failure to perform under this Contract if Contractor's performance is prevented or delayed by acts of terrorism, acts of God including landslides, lightning, forest fires, storms, floods, freezing and earthquakes, civil disturbances, wars, blockades, public riots, explosions, unavailability of required materials or disposal restrictions, governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the Contractor ("Force Majeure"). If as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, it shall promptly give the City written notice of the Force Majeure event, describing it in reasonable detail. The Contractor's obligations under this Contract shall be suspended, but only with respect to the particular component of obligations affected by the Force Majeure event and only for the period during which the Force Majeure event exists.

The following events do not constitute Force Majeure: strikes, other than nationwide strikes or strikes that by virtue of their extent or completeness make the particular goods or services effectively unavailable to the Contractor; work stoppages or other labor disputes or disturbances occurring with respect to any activity performed or to be performed by the Contractor; or general economic conditions.

6.20 Illegal Provisions/Severability

At the discretion of the City, if any provision of this Contract shall be declared illegal, void, or unenforceable, the other provisions shall not be affected, but shall remain in full force and effect.

6.21 Waiver

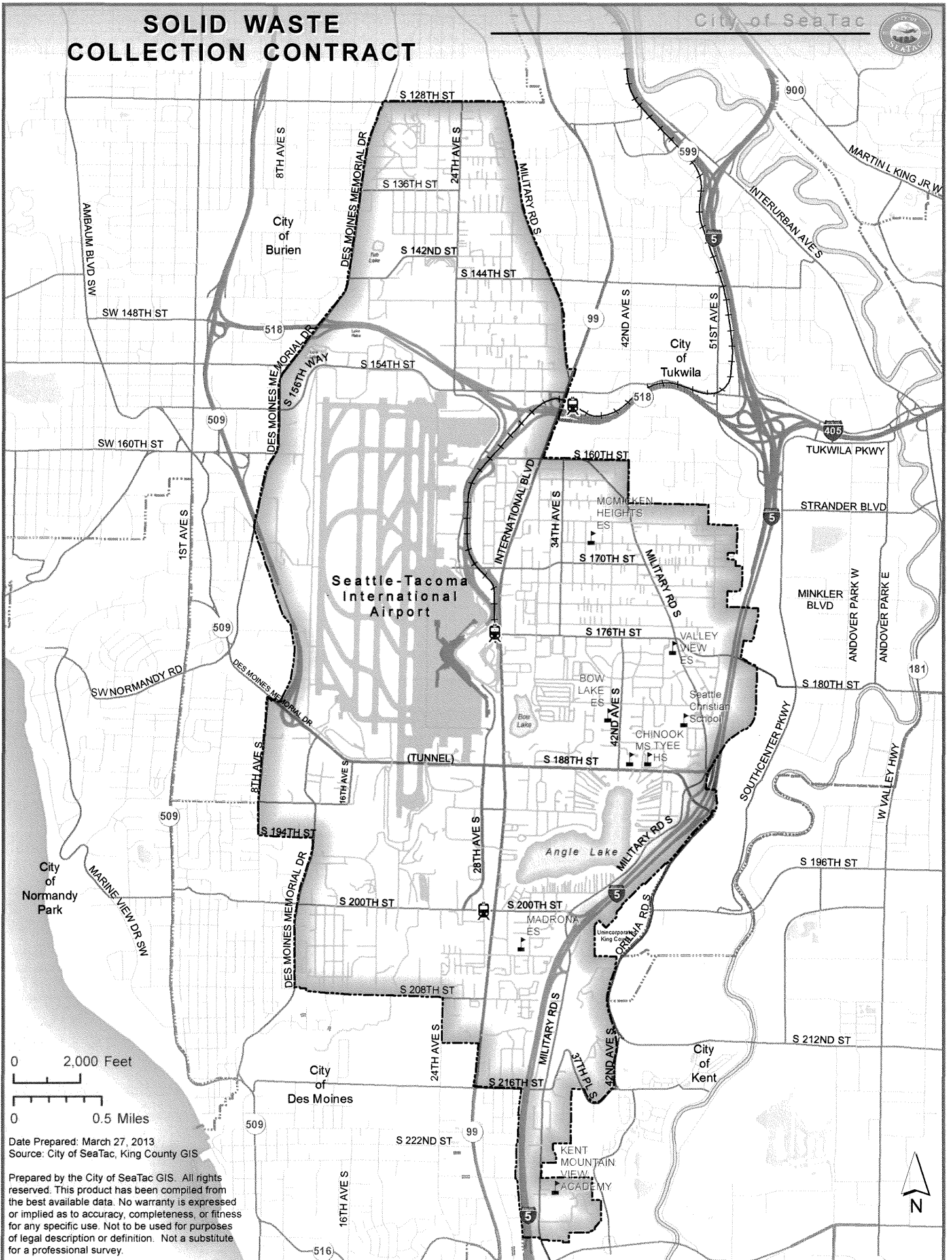
No waiver of any right or obligation of either party hereto shall be effective unless in writing, specifying such waiver, and executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Contract on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

6.22 Entirety

This Contract and the attachments attached hereto and incorporated herein by this reference, specifically Attachments A-C, represent the entire agreement of the City and the Contractor with respect to the services to be provided under this Contract. No prior written or oral statement or proposal shall alter any term or provision of this Contract.

SOLID WASTE COLLECTION CONTRACT

City of SeaTac



Date Prepared: March 27, 2013
 Source: City of SeaTac, King County GIS

Prepared by the City of SeaTac GIS. All rights reserved. This product has been compiled from the best available data. No warranty is expressed or implied as to accuracy, completeness, or fitness for any specific use. Not to be used for purposes of legal description or definition. Not a substitute for a professional survey.

WITNESS THE EXECUTION HEREOF on the day and year first herein above written.

CleanScapes, Inc.

CITY OF SEATAC

By: _____

By: _____

Mayor

SeaTac, WA

ATTEST:

City Clerk,

APPROVED AS TO FORM:

City Attorney,

Attachments:

- A. Service Area Map
- B. Contractor Rates
- C. List of Recyclables
- D. Rate Modification Example

CONTRACTOR RATES

| | Service Level | Pounds | Monthly |
|--|---|-----------|-------------|
| | | Per Unit | Service Fee |
| Monthly | One 32 gallon Garbage Can or Units | 32.00 | \$ 10.81 |
| Weekly Curbside Service (includes cow recycle & yw) | One 10 gallon Micro-Can | 10.00 | \$ 11.27 |
| | One 20 gallon Mini-Can | 17.00 | \$ 13.50 |
| | 1 32 gallon Garbage Cart/Can | 20.80 | \$ 17.75 |
| | 1 45-gallon Garbage Cart/Can | 29.25 | \$ 20.55 |
| | 1 64-gallon Garbage Cart/Can | 41.60 | \$ 24.42 |
| | 1 96-gallon Garbage Cart/Can | 62.40 | \$ 35.09 |
| | Additional 32 Gallon Cans (weekly svc) | 20.80 | \$ 6.76 |
| | Extras (32 gallon equivalent) | | \$ 4.76 |
| | Miscellaneous Fees: | | |
| | EoW Compostables service (addn'l 96 Cart) | | \$ 4.23 |
| | Yard Debris extra (32 gallon equiv) | | \$ 2.11 |
| | Recycle-only Service | | \$ 2.67 |
| | Return Trip | | \$ 6.34 |
| | Carry-out Charge, per 25 ft, per month | | \$ 4.23 |
| | Drive-in Charge, per month | | \$ 6.34 |
| | Overweight/Oversize container (per p/u) | | \$ 3.17 |
| | Redelivery of containers | | \$ 10.57 |
| Cart Cleaning (per cart per event) | | \$ 10.57 | |
| Sunken Can Surcharge per month | | \$ 7.93 | |
| On-Call Bulky Waste Collection | White Goods, except refrigerators | 100.00 | \$ 20.00 |
| | Refrigerators/Freezers | 300.00 | \$ 20.00 |
| | Sofas, Chairs | 100.00 | \$ 20.00 |
| | Mattresses | 20.00 | \$ 20.00 |
| Weekly Commercial Can and Cart | One 20 gallon Mini-Can | 17.00 | \$ 9.89 |
| | 1 32 gallon Garbage Can/Cart | 20.80 | \$ 12.24 |
| | 2 32-gallon Garbage Can/64 gallon Cart | 41.60 | \$ 19.51 |
| | 3 32 gallon Garbage Can/96 gallon Cart | 62.40 | \$ 26.27 |
| | Extras (32 gallon equivalent) | | \$ 4.76 |
| | Miscellaneous Fees: | | |
| | Return Trip | | \$ 6.34 |
| | Carry-out Charge, per 25 ft, per p/u | | \$ 1.59 |
| | Drive-in Charge, per month (per p/u) | | \$ 6.34 |
| | Gate and/or unlock fee (per p/u) | | \$ 1.59 |
| | Container roll-out, >10 feet (per p/u) | | \$ 3.17 |
| | Overweight/Oversize container (per p/u) | | \$ 3.17 |
| | Redelivery of container | | \$ 10.57 |
| | Cart Cleaning (per cart per event) | | \$ 10.57 |
| Weekly Commercial Detachable Container (compacted) | 1 Cubic Yard Container | 330.00 | \$ 258.53 |
| | 1.5 Cubic Yard Container | 495.00 | \$ 370.54 |
| | 2 Cubic Yard Container | 660.00 | \$ 471.02 |
| | 3 Cubic Yard Container | 990.00 | \$ 672.01 |
| | 4 Cubic Yard Container | 1,320.00 | \$ 803.90 |
| Commercial Detachable Container (loose) | 6 Cubic Yard Container | 1,980.00 | \$ 1,136.77 |
| | 1 Cubic Yard, 1 pickup/week | 110.00 | \$ 80.71 |
| | 1 Cubic Yard, 2 pickups/week | 220.00 | \$ 161.41 |
| | 1 Cubic Yard, 3 pickups/week | 330.00 | \$ 242.12 |
| | 1 Cubic Yard, 4 pickups/week | 440.00 | \$ 322.83 |
| | 1 Cubic Yard, 5 pickups/week | 550.00 | \$ 403.53 |
| | 1.25/1.5 Cubic Yard, 1 pickup/week | 165.00 | \$ 105.40 |
| | 1.25/1.5 Cubic Yard, 2 pickups/week | 330.00 | \$ 210.79 |
| | 1.25/1.5 Cubic Yard, 3 pickups/week | 495.00 | \$ 316.19 |
| | 1.25/1.5 Cubic Yard, 4 pickups/week | 660.00 | \$ 421.58 |
| | 1.25/1.5 Cubic Yard, 5 pickups/week | 825.00 | \$ 526.98 |
| | 2 Cubic Yard, 1 pickups/week | 220.00 | \$ 134.15 |
| | 2 Cubic Yard, 2 pickups/week | 440.00 | \$ 268.31 |
| 2 Cubic Yard, 3 pickups/week | 660.00 | \$ 402.46 | |

CONTRACTOR RATES

| | | | |
|---|---------------------------------------|------------------------|-----------------------|
| 2 Cubic Yard, 4 pickups/week | 880.00 | \$ | 536.62 |
| 2 Cubic Yard, 5 pickups/week | 1,100.00 | \$ | 670.77 |
| 3 Cubic Yard, 1 pickup/week | 330.00 | \$ | 189.07 |
| 3 Cubic Yard, 2 pickups/week | 660.00 | \$ | 378.14 |
| 3 Cubic Yard, 3 pickups/week | 990.00 | \$ | 567.21 |
| 3 Cubic Yard, 4 pickups/week | 1,320.00 | \$ | 756.29 |
| 3 Cubic Yard, 5 pickups/week | 1,650.00 | \$ | 945.36 |
| 4 Cubic Yard, 1 pickup/week | 440.00 | \$ | 244.14 |
| 4 Cubic Yard, 2 pickups/week | 880.00 | \$ | 488.28 |
| 4 Cubic Yard, 3 pickups/week | 1,320.00 | \$ | 732.42 |
| 4 Cubic Yard, 4 pickups/week | 1,760.00 | \$ | 976.56 |
| 4 Cubic Yard, 5 pickups/week | 2,200.00 | \$ | 1,220.70 |
| 6 Cubic Yard, 1 pickup/week | 660.00 | \$ | 342.97 |
| 6 Cubic Yard, 2 pickups/week | 1,320.00 | \$ | 685.95 |
| 6 Cubic Yard, 3 pickups/week | 1,980.00 | \$ | 1,028.92 |
| 6 Cubic Yard, 4 pickups/week | 2,640.00 | \$ | 1,371.90 |
| 6 Cubic Yard, 5 pickups/week | 3,300.00 | \$ | 1,714.87 |
| 8 Cubic Yard, 1 pickup/week | 880.00 | \$ | 447.58 |
| 8 Cubic Yard, 2 pickups/week | 1,760.00 | \$ | 895.16 |
| 8 Cubic Yard, 3 pickups/week | 2,640.00 | \$ | 1,342.74 |
| 8 Cubic Yard, 4 pickups/week | 3,520.00 | \$ | 1,790.32 |
| 8 Cubic Yard, 5 pickups/week | 4,400.00 | \$ | 2,237.90 |
| Extra loose cubic yard, per pickup | 110.00 | \$ | 21.13 |
| Drop Box Miscellaneous Fees (per occurrence): | | | |
| Return Trip | | \$ | 10.57 |
| Roll-out Container over 10 feet (per p/u) | | \$ | 3.17 |
| Unlock Container (per p/u) | | \$ | 1.59 |
| Gate Opening (per p/u) | | \$ | 1.59 |
| | Service Level (# of Boxes) | Daily Rent | Haul Charge |
| Commercial Drop-box Collection | Non-comp 10-15 cubic yard DB (0) | \$ 5.28 | \$ 101.07 |
| | Non-comp 20 cubic yard DB (8) | \$ 5.28 | \$ 101.07 |
| | Non-comp 25 cubic yard DB (3) | \$ 5.28 | \$ 101.07 |
| | Non-comp 30 cubic yard DB (10) | \$ 5.28 | \$ 101.07 |
| | Non-comp 40 cubic yard DB (1) | \$ 5.28 | \$ 101.07 |
| | Compacted 10 cubic yard Drop-box (0) | | \$ 126.07 |
| | Compacted 15 cubic yard Drop-box (1) | | \$ 126.07 |
| | Compacted 20 cubic yard Drop-box (2) | | \$ 126.07 |
| | Compacted 25 cubic yard Drop-box (4) | | \$ 126.07 |
| | Compacted 30 cubic yard Drop-box (19) | | \$ 126.07 |
| | Compacted 40 cubic yard Drop-box (0) | | \$ 126.07 |
| | Service Level | Pounds Per Unit | Haul Charge |
| Temporary Collection Hauling | 4 Yard detachable container | 600.00 | \$ 106.05 |
| | 6 Yard detachable container | 900.00 | \$ 124.07 |
| | 8 Yard detachable container | 1,200.00 | \$ 142.10 |
| | Non-compacted 10 cubic yard Drop-box | | \$ 126.80 |
| | Non-compacted 20 cubic yard Drop-box | | \$ 126.80 |
| | Non-compacted 30 cubic yard Drop-box | | \$ 126.80 |
| | Non-compacted 40 cubic yard Drop-box | | \$ 126.80 |
| | Service Level | | Monthly Rental |
| Temporary Collection Container Rental and Delivery | 4 Yard detachable container | | \$ 52.83 |
| | 6 Yard detachable container | | \$ 52.83 |
| | 8 Yard detachable container | | \$ 52.83 |
| | Non-compacted 10 cubic yard Drop-box | | \$ 73.97 |
| | Non-compacted 20 cubic yard Drop-box | | \$ 73.97 |
| Non-compacted 30 cubic yard Drop-box | | \$ 84.54 | |

CONTRACTOR RATES

| | | | |
|-----------------------|--|----------------|------------------|
| | Non-compacted 40 cubic yard Drop-box | | \$ 84.54 |
| Event Services | | | Cost/Day |
| | Set of (3) 96-gal Carts, per event day | | \$ 126.80 |
| | Miscellaneous Fees: | | Per Event |
| | Return Trip | | \$ 26.42 |
| | Stand-by Time (per minute) | | \$ 1.69 |
| | Drop-box turn around charge | | \$ 10.57 |
| Hourly Rates | | Service | Per Hour |
| | Rear/Side-load packer + driver | | \$ 132.09 |
| | Front-load packer + driver | | \$ 132.09 |
| | Drop-box Truck + driver | | \$ 132.09 |
| | Additional Labor (per person) | | \$ 52.83 |

Attachment C

| Recyclable Item | Curb | Store* | Call in | Handling Instructions | Limitations | Single-Family | Multi-Family | Commercial |
|--|------|--------|---------|---|--|---------------|-------------------|------------|
| Aluminum (Cans, pie "tins", foil, and other aluminum parts.) | X | | | Place in cart. | | X | X | X |
| Tin cans (All food and beverage tin cans.) | X | | | Place in cart. | | X | X | X |
| Corrugated Cardboard | X | | | Flatten boxes. Place in cart or secure (e.g. box or bundle) and set next to cart. | | X | X | X |
| Glass containers (Clear or colored jars and bottles.) | X | | | Empty, remove lids and place in cart. | | X | X | X |
| Paper (mixed office paper, colored paper, newsprint, magazines, phone books, catalogues) | X | | | Place in cart. | | X | X | X |
| Paper Containers (paper cups - soda, coffee; paper food cartons - milk, juice, soy, soup) | X | | | Empty, place in cart | | X | X | X |
| Plastic Bags & Films (Clean, dry shopping, newspaper, and drycleaning bags.) | X | | | Place all plastic bags and film inside of one bag and tie to secure. | | X | X | X |
| Plastic Containers (Bottles, cups, jugs, tubs, lids >3", food containers and trays, plant pots and similar.) | X | | | Empty, place in cart. | | X | X | X |
| Rigid Plastics (5g buckets, PVC pipes, laundry baskets, plastic lawn furniture, Big Wheels, coolers, Nalgene Bottles, PVC pipe < XX feet long. | X | | X | Cart customers: Place items in cart, or next to cart. One dimension of the object must be < 2 feet. Container customers: Place items in container. | Cart customers: Call to collect large (i.e., all dimensions are > 2 feet) items. | X | X | |
| Motor Oil | X | | | Seal uncontaminated oil in clean, clear, screw-top plastic jugs. Label jugs with name and address and place next to cart. | LIMIT: 3 gallons per collection | X | | |
| Fluorescent Tubes and Bulbs | X | X | | Wrap tubes in newspaper and secure with tape. Place bulbs in a sealed bag. | LIMIT: 2 tubes/bulbs per collection. LIMIT: 10 tubes/bulbs per year. Tubes must be no longer than 4ft. | X | Drop-off at store | |
| Used Cooking Oil (FOG) | X | X | | Seal uncontaminated oil (no large solids) in clean, clear, screw-top plastic jugs. Label jugs with name and address and place next to cart. | LIMIT: 3 gallons per drop-off or pick-up. LIMIT: 10 gallons per year. | X | Call in only | |
| Textiles | X | X | | Place clean, dry clothing and household textiles in clear plastic bag. | | X | Call in only | |
| Household Batteries (Alkaline, Button, and rechargeable) | X | X | | Place rechargeable and non-rechargeable batteries in separate, sealed bags. Set on top of cart. | | X | Call in only | |
| Small Appliances (microwave ovens, toaster ovens, irons, etc.) | X | X | | Set on top of or next to cart. | LIMIT: 2'x2'x2' or smaller and less than 60lbs | X | Call in only | |
| Small Electronics (2x2x2 or smaller) (Computer equipment, audio equipment, TVs, cell phones, MP3 players, VCRs and other equipment containing circuit boards) | X | X | | Place in a clear plastic bag. Set on top of or next to cart. | LIMIT: 2'x2'x2' or smaller and less than 60lbs | X | Call in only | |
| Scrap Metal (Any ferrous or non-ferrous scrap metal items (e.g., tins, aluminum lawn chair frames, pipes, fencing, or other.) | X | | | Place in cart or secure (e.g., bundle, box) next to cart. | Limit: Less than 6ft and 65lbs. Less than 5% non-metal components. | X | X | X |
| Styrofoam Blocks | | X | X | Place in a clear plastic bag. Weigh down to prevent movement. Call in and set next to cart on specified day. | NO packing peanuts. | X | Call in only | |
| Car Seats | | X | | | Drop-off at store only | X | X | |
| Bicycles & Bike Parts | | X | | | Drop-off at store only | X | X | |
| Hard-Cover Books | | X | X** | Place in boxes and deliver to store. **CS will provide a 4yd dumpster to each SeaTac School once per year upon request. | | X | X | |
| Small Propane Cylinders | | | X | Cylinders must be empty. Place in box next to cart. DO NOT place cylinders in cart | Only cylinders, no tanks. | X | Call in only | |
| Bulky Items (Refrigerators, freezers, washer/dryer, water heater, stove/range, range hoods, sofas, chairs, other furniture, mattresses, and large (i.e., greater than 3'x3'x3') electronics and TVs.) | | | X | Each customer is allowed an on-call pick-up of one yard of garbage picked up each calendar year. | Limit 3'x3'x3' and no more than 65 pounds. Any subsequent bulky item pick-ups will be charged \$20 (per contract Section 2.2.1.3.) | X | Call in only | X |
| Construction & Demolition Debris (Wood waste, dry wall, concrete, brick, roofing, carpet, etc. Complete list in proposal.) | | | X | Call to request special container (2 to 40yd). Tonnage and haul fees apply. | | X | X | X |

*Store drop-off limited to subscribing customers.

Attachment D

Rate Modification Examples

The collection and disposal components of the Customer charges listed in Attachment B will be adjusted separately, as appropriate. The collection component of Customer charges will be adjusted annually, pursuant to this Section and as described below. The disposal component of the Customer charges listed in Attachment B will be adjusted only if the City receives notification from the County of a pending disposal fee adjustment, and will not become effective until the new disposal charges become effective and are actually charged to the Contractor. Formulas for both collection and disposal rate adjustments are provided as follows:

Collection Component Adjustment

The sum of the collection and Franchise Fee components listed in Attachment B will be increased or decreased by the amount of the CPI change:

$$NCC = PCC \times 1 + \frac{nCPI - oCPI}{oCPI} \times 0.75$$

- Where
- NCC = The new collection and Franchise Fee components, adjusted for excise tax on the Franchise Fee, of the customer rate for a particular service level; and
 - PCC = The previous collection and Franchise Fee components, adjusted for excise tax on the Franchise Fee, of the Customer rate for a particular service level; and
 - nCPI = The most recent June CPI value; and
 - oCPI = The CPI value used for the previous rate adjustment or, in the case of the first contract adjustment, the CPI value reported at the end of June 2015.

Disposal Component Adjustment

In the case of a disposal fee modification at County disposal facilities, the disposal component of each service level will be adjusted as follows:

Step 1:

$$A = ODC \times \frac{NTF}{OTF}$$

Step 2:

$$NDC = A + [(A - ODC) \times CETR]$$

- Where
- NDC = The new disposal charge component of the customer rate for a particular service level; and
 - NTF = The new disposal fee, dollars per ton; and
 - ODC = The old disposal charge component of the customer rate for a particular service level;
 - OTF = The old disposal fee, dollars per ton; and
 - A = Pre-excise tax adjusted disposal component; and
 - CETR = Current excise tax rate (the current State excise tax rate; 0.015 used for this example).

For example, using an initial one 35-gallon cart rate of \$17.75 per month: if the previous CPI is 143.2, the new CPI is 144.3 and the disposal fee will increase from \$120 to \$130 per ton starting on January 1, 2016, the old disposal component is \$5.41, and the State Excise Tax rate is 0.015, the January 2016 Customer charge for one 35-gallon cart per week Residential Curbside service would be:

$$\text{New Collection Component} = \$12.34 \times \left[1 + \frac{(144.3-143.2)}{(143.2)} \times 0.75 \right] = \$12.41$$

$$\text{New Disposal Component} = [\$5.41 \times (130/120)] \text{ plus excise tax adjustment of } \$0.01 = \$5.87$$

Thus, the new Customer charge for one 35-gallon cart per week Residential Curbside service will be \$12.41 plus \$5.87, equaling \$18.28.