

**RECLAIMED WATER SERVICE AND USE AREA AGREEMENT
BETWEEN STARFIRE SPORTS, CITY OF TUKWILA, AND KING COUNTY**

This Reclaimed Water Service and Use Area Agreement ("Agreement") is made and entered into this 18TH day of March, 2015, between Starfire Sports, a Washington non-profit corporation ("Starfire"), the City of Tukwila, a Washington municipal corporation (the "City") and King County, a political subdivision of the State of Washington (the "County") together referred to as the "Parties."

1.0 RECITALS

- 1.1 Washington State law encourages the use of reclaimed water "to replace potable water in nonpotable applications, to supplement existing surface and groundwater supplies, and to assist in meeting the future water needs of the State"; and
- 1.2 King County has authority to produce and distribute reclaimed water in accordance with Reclaimed Water Permit Number ST-7445 issued by the State Department of Ecology on September 30, 2009, as amended or modified from time to time (the "County Permit"); and
- 1.3 King County and the City entered into an Agreement for the Sale and Distribution of Reclaimed Water dated September 11, 2008; and
- 1.4 The City and Starfire entered into an Agreement on March 1, 2003, to operate as a ground and use concession and licenses granting Starfire the exclusive right to develop, construct and operate facilities at the Fort Dent Regional Park located at 6800 Fort Dent Way, Tukwila, Washington (the "Park"); and
- 1.5 The City, the County, and Starfire entered into a Reclaimed Water Service and Use Area Agreement on August 25, 2009, which agreement authorized the purchase of reclaimed water by Starfire for a soccer field and landscaping area within the Park. That agreement expired on August 25, 2014; and
- 1.6 Starfire desires to purchase reclaimed water for the purposes described in Exhibit C at the location depicted on Exhibit A, hereinafter referred to as the "Use Location"; and
- 1.7 The use of reclaimed water for irrigation and other uses are regulated by the Permit, state and local laws, regulations and standards governing the delivery and use of Class A Reclaimed Water.

NOW, THEREFORE, in consideration of the recitals and the mutual promises and covenants contained herein, the County and City agree to supply reclaimed water and Starfire agrees to purchase reclaimed water on the following terms and conditions:

1st of 3 ORIGINALS

2.0 SUPPLY AND SALE OF RECLAIMED WATER

- 2.1 The County and the City agree to deliver Class A Reclaimed Water (as defined in Exhibit B) to Starfire for use in the Use Location. The County and City make no other representation concerning the quality of the reclaimed water and make no express or implied warranties whatsoever.
- 2.2 The County and the City will deliver Class A Reclaimed Water for use by Starfire in the Use Location up to the maximum flow rate and pressure range specified in Exhibit C.
- 2.3 The County and the City will deliver Class A Reclaimed Water to Starfire through the conveyance system which connects to the Park's irrigation system for the Use Location. The City has installed and will maintain a reclaimed water meter on the outlet side of the conveyance system, to provide accurate measurement of the quantity of reclaimed water supplied to Starfire. Reclaimed water will be available for use during the time periods identified in Exhibit C.
- 2.4 In the event of a natural disaster, fire, storm, flood, earthquake or similar occurrence, an order by a regulatory body or court, the need for emergency repairs or other necessary work, or whenever the public health or safety so demands, the County and the City may change, reduce or limit the time for or temporarily discontinue the supply of Class A Reclaimed Water to Starfire. Before so changing, reducing, limiting or discontinuing the supply of Class A Reclaimed Water to Starfire, the County shall, insofar as practicable, notify Starfire and the City. The County and the City shall not be responsible for any damage resulting from interruption or change of the Class A Reclaimed Water supply, or for any damages incurred by Starfire arising out of the use or transportation of the Class A Reclaimed Water.

In the event that the County and/or City cannot deliver Class A Reclaimed Water to the Use Location, through no fault of Starfire, for a period exceeding forty-eight continuous hours, then the City will provide a back-up water source only to the extent needed to irrigate the Use Location (not to exceed the maximum quantity or flow rate specified in Exhibit C) and only up to a maximum of ninety (90) days. If the inability to deliver Class A Reclaimed Water is due to the actions, omissions or willful conduct of Starfire, its representatives, agents, employees or volunteers then the obligation, stated herein, to provide a back-up water source shall not be triggered.

In the event that the County and/or City cannot deliver Class A Reclaimed Water to the Use Location for more than ninety (90) days for any reason or for no reason, then the County and City may terminate this agreement and shall be under no further obligation to provide Class A Reclaimed Water or a back-up water source under this Agreement. If after ninety (90) days Class A Reclaimed Water

is still not available and this agreement is terminated as allowed above, the City will disconnect the reclaimed water line and connect the irrigation system previously served by reclaimed water to potable water service. Any modification requiring a change in the meter size or the existing pipe connection size will be the responsibility of Starfire. Starfire shall be solely responsible for paying all potable water use charges at potable water rates.

3.0 RESTRICTIONS ON USE OF RECLAIMED WATER

- 3.1 Subject to the terms and conditions of this Agreement, Starfire may use the Class A Reclaimed Water only on the Use Location and only for the irrigation of the soccer field and landscaping area within the Use Location identified on Exhibit A. Starfire's use of the Class A Reclaimed Water shall conform to all requirements of the Reclamation Criteria in Exhibit B
- 3.2 Starfire shall not sell, transfer, gift or convey the reclaimed water to any person or party.
- 3.3 Starfire shall not discharge or release or allow the discharge or release of reclaimed water to any surface water body or stormwater collection or conveyance facility from the Use Location.
- 3.4 Starfire shall irrigate the soccer field at agronomic rates and minimize underdrain flow to the stormwater pond, reduce ponding, runoff, overspray, and groundwater infiltration.
- 3.5 The public and employees shall be notified of the use of reclaimed water at all use areas. Starfire shall post advisory signs at the Use Location in plain view.
- 3.6 Starfire shall ensure that its irrigation system is in good working order, maintained regularly and kept free of leaks. Starfire shall further ensure that its irrigation controllers are set so that reclaimed water is applied appropriately to the landscape, to avoid excessive ponding or runoff of water. Sprinkler heads should be adjusted as necessary to avoid application of water to impervious surfaces. Reclaimed water, including runoff and spray, shall be confined to the designated Use Location in accordance with this Agreement.
- 3.7 Starfire shall ensure that there are no cross connections of potable water and reclaimed water or reclaimed water and sewage. Starfire shall install appropriate cross connection control devices on all potable water lines (if any) in the Use Location in accordance with the State Water Reclamation and Reuse Standards.
- 3.8 Starfire shall ensure that all reclaimed water piping, valves, outlets and other appurtenances are color-coded purple or otherwise tagged or marked to identify the source of the water as being reclaimed water and not intended for drinking.

- 3.9 If Starfire desires to modify or extend the irrigation system it must, prior to any work, submit plans for such modifications or extensions to the City and the County for their review and approval prior to commencement of construction. The City and/or the County may deny said plans at their sole discretion.
- 3.10 Starfire shall ensure that there are no cross connections with any potable water systems, including hose bibbs.
- 3.11 Starfire shall ensure that no hose bibbs are in place for reclaimed water. Quick connection stations may be allowed in the future if approved as outlined in Section 3.14.
- 3.12 Starfire shall ensure that all employees, members, or volunteers using reclaimed water have completed training in the requirements for appropriate use of the reclaimed water provided by King County and/or the City. Starfire shall ensure that all reclaimed water valves and outlets are of a type, or secured in a manner, that permits operation only by personnel trained.
- 3.13 Starfire shall not irrigate with reclaimed water when the ground is saturated, frozen, or during rain events. Precautions shall be taken to assure that reclaimed water or reclaimed water mist shall not be sprayed on people, any facility, or area not designated as the Use Location.
- 3.14 If Starfire is not in breach of any term or condition of this Agreement and if the City concurs, then Starfire may, during the term of this Agreement, propose a modification to the reclaimed water uses and/or to the Use Location described in Exhibits A and C of this Agreement, by submitting to the County a written request for modification of reclaimed water use and/or of the Use Location, setting forth a description of the proposed modification, the purpose of the modification, and the proposed quantity, flow rate, and desired availability of Class A Reclaimed Water requested for the proposed modification. The County will review the Request for Modification of Reclaimed Water Use and/or Use Location and either approve or deny the request. The County's decision to approve or deny the request for Modification of Reclaimed Water Use and/or Use Location shall be in the County's sole and absolute discretion. King County is the Reclaimed Water Permit holder and must comply with the terms and conditions of the State-issued permit, which includes approved uses and use locations. Starfire shall not use reclaimed water for uses or in Use Locations except as identified in Exhibits A and C without the prior written approval of the County which approval may be withheld in the County's sole and absolute discretion. For purposes of this paragraph the City shall acknowledge its concurrence in Starfire's proposed request for modification to the reclaimed water uses and/or to the Use Location by submitting a written notice of concurrence, signed by the City Administrator or his or her authorized designee. City Council action shall not be required to effect a modification under this Section 3.14.

If the County approves the proposed modification of reclaimed water use and/or Use Location, then the County shall revise Exhibits A and C to this Agreement to reflect the approved modification to reclaimed water use and/or Use Location (the "Revised Reclaimed Water Use" or "Revised Use Area") and shall send the revised Exhibits A and C to the Parties at the addresses set forth in Section 11 below. The Revised Reclaimed Water Use and/or Revised Use Location shall become effective on the date of the County's transmittal of the revised exhibits. Starfire shall bear any and all costs associated with any and all requests for modification of the Reclaimed Water Use or Use Location. The County is, and shall be, under no obligation, directly or indirectly, to pay for any labor, material, or improvements associated with any change in reclaimed water use.

4.0 RIGHT OF ENTRY/INSPECTION

Representatives from the Departments of Health and Ecology, King County, and/or the City shall have authority to regulate distribution, enter and inspect the Park and Use Location and to terminate service of reclaimed water for any violation of the Washington State Water Reclamation and Reuse Standards, the Permit, or any term or condition in this Agreement. Starfire hereby grants the City and the County and their duly authorized employees, agents, representatives and contractors, reasonable access to the Park and the Use Location, for any such purpose including, but not limited to, meter reading, cross connection control inspections and verification of reclaimed water use, use patterns, and signage.

5.0 PRICE OF RECLAIMED WATER

- 5.1 During the term of this Agreement, Starfire shall pay the City an agreed upon rate identified in Exhibit D for the volume measured at the reclaimed water meter.
- 5.2 The price charged by the City for the use of the reclaimed water may change as the cost of providing the reclaimed water changes.
- 5.3 The City shall bill Starfire on a monthly basis and Starfire shall pay the amount due based upon the metered flow and said price.
- 5.4 In the event of non-payment for sixty (60) days after mailing of invoice, the City and/or the County may disconnect Starfire's irrigation system and stop delivery of Class A Reclaimed Water to the Use Location. This remedy is in addition to all other remedies.
- 5.5 Starfire shall provide to the County and the City all requested documentation and records, including, but not limited to, reclaimed water use quantities, methods of application, irrigation schedules, details of installed infrastructure, and other information required by the County as part of the County's annual regulatory reporting and five year permit submittal process.

6.0 WATER RIGHTS

No water right is created by this Agreement.

7.0 COMPLIANCE WITH LAWS GOVERNING RECLAIMED WATER

- 7.1 Starfire agrees that it will comply with all applicable federal, state and local laws, regulations and standards governing the use of Class A Reclaimed Water.
- 7.2 Starfire's use of Class A Reclaimed Water must meet all applicable requirements contained in the Reclamation Criteria in Exhibit B.
- 7.3 A violation of these terms and conditions or of State standards and regulations may result in termination of Class A Reclaimed Water service under this Agreement.

8.0 INDEMNIFICATION

To the maximum extent permitted by law, Starfire shall hold harmless, indemnify and defend the City and King County from any claims, suits, actions, losses, penalties, judgments, and awards for damages of any kind arising out of or in connection with the use of Class A Reclaimed Water provided under this Agreement, except to the extent arising out of the negligence or other fault of the City and/or King County.

Starfire agrees that its obligation under this section extends to any claim, demand, and or cause of action brought by or on behalf of any of its employees, or agents. For this purpose, Starfire, by mutual negotiation, hereby waives, as respects the The City and King County, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW of the State of Washington. The foregoing duty is specifically and expressly intended to constitute a waiver of Starfire's immunity under Washington's Industrial Insurance Act, RCW Title 51.

9.0 TERMINATION

This Agreement may be terminated immediately for cause, including but not limited to non-payment of water charges or a violation of the requirements described in Sections 3 and 7 of this Agreement.

This Agreement may also be terminated upon thirty (30) days written notice by the County if the County cannot deliver Class A Reclaimed Water to the Use Location for more than ninety (90) days as described in Section 2.4 of this Agreement.

10.0 TERM OF AGREEMENT

The term of this Agreement shall commence on the date of execution by the Parties and continue, subject to the terms and conditions hereof, for a term of 5 years, unless terminated earlier as allowed herein.

11.0 NOTICES

Any notices required or authorized herein shall be in writing and shall be deemed to have been duly given if delivered personally, sent by nationally recognized overnight delivery service, or sent by registered or certified mail if mailed or deposited in the United States mail, return receipt requested, postage prepaid to the Parties at the addresses listed below

Starfire Sports:

Ben Oliver
ATTN: General Manager
Starfire Sports
14800 Starfire Way
Tukwila, WA 98188
(206) 267-6416
ben@starfiresports.com

City of Tukwila:

Pat Brodin
ATTN: Operations Manager
600 Minkler Blvd
Tukwila, WA 98188
(206) 433-1861
pwutil@ci.tukwila.wa.us

King County:

For contractual related notices:
Kristina Westbrook
ATTN: Recycled Water Program Manager
Wastewater Treatment Division
KSC-NR-0512
201 S. Jackson Street
Seattle, WA 98104-3855
206-477-5522
kristina.westbrook@kingcounty.gov

For reclaimed water operational related notices:

Curtis Steinke
ATTN: Reclaimed Water Process Analyst
South Treatment Plant
RTP-NR-0100
1200 Monster Rd SW
Renton, WA 98055
206-684-2456
curtis.steinke@kingcounty.gov

or to such other addresses as the Parties may from time to time designate in writing and deliver in a like manner. Notices may also be given by facsimile transmission (provided the fax machine has printed a confirmation of receipt). All notices that are mailed shall be deemed received three (3) business days after mailing. All other notices shall be deemed complete upon actual receipt or refusal to accept delivery.

12.0 ASSIGNMENT

This Agreement may not be assigned by Starfire and may not be transferred to a location or for a purpose not authorized under this Agreement without the express written consent of the County.

13.0 NON-WAIVER

Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach, and shall not be construed to be a modification of this Agreement.

14.0 AMENDMENT

Except as provided in Section 3.14 above, this Agreement may be amended only by an instrument in writing duly executed by all of the Parties to this Agreement.

15.0 GOVERNING LAW; VENUE

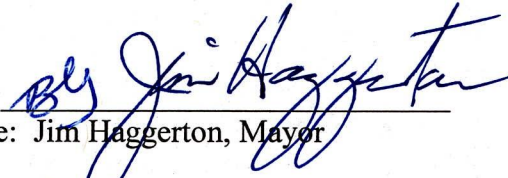
This Agreement shall be governed by and construed and enforced in accordance with Washington law and the Parties agree that for any legal action or proceeding, venue shall be in King County Superior Court, in Seattle Washington.

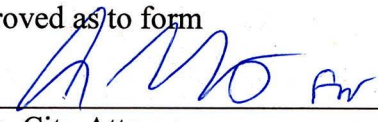
16.0 AUTHORITY

Each individual signing this Agreement warrants that he or she has the authority to enter into this Agreement on behalf of the Party for which that individual signs.

IN WITNESS WHEREOF the undersigned, being duly authorized, have caused this Agreement to be executed on the dates shown below.

CITY OF TUKWILA

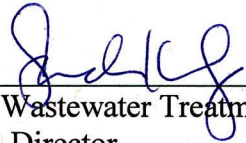
BY: 
Title: Jim Haggerton, Mayor

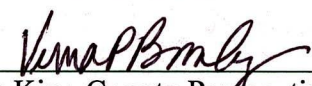
Approved as to form
BY: 
Title: City Attorney

Date: 3-18-15

Date: 3-18-15

KING COUNTY

BY: 
Title: Wastewater Treatment Division
Director

Approved as to form
BY: 
Title: King County Prosecuting Attorneys
Office

Date: 2/27/15

Date: 2/26/15

STARFIRE SPORTS

BY: 
Title: General Manager, Ben Oliver

Date: 02/26/15

Exhibits

- A Reclaimed Water Use Location Map
- B Definitions
- C Approved Uses, Use Locations, and Reclaimed Water Availability
- D Rate and Price for Reclaimed Water Usage

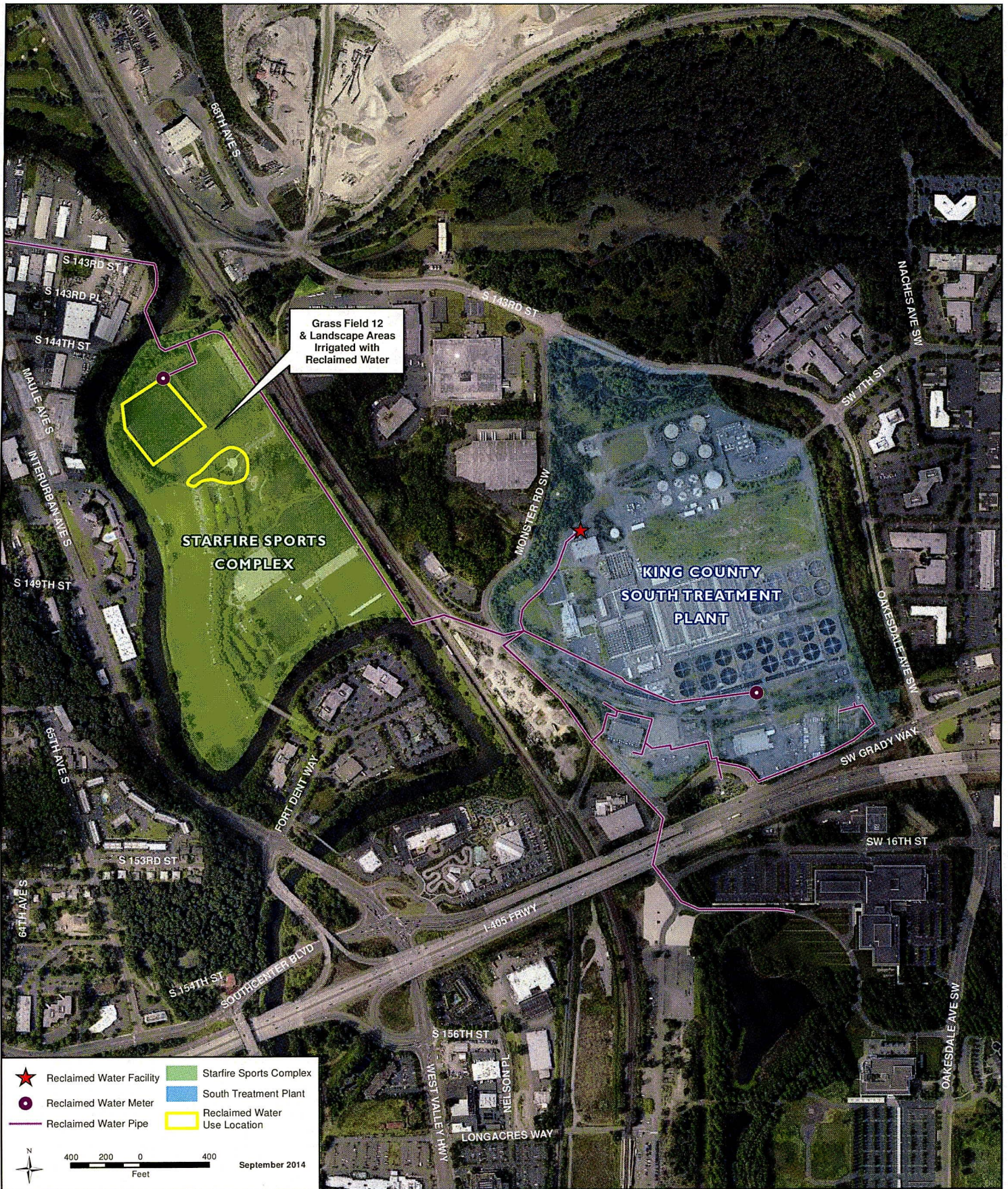


EXHIBIT B

DEFINITIONS

1. **Class A Reclaimed Water:** means reclaimed water that, at a minimum, is at all times an oxidized, coagulated, filtered, disinfected wastewater and meets State Class A standards as defined in the State Reclamation and Reuse Standards. At the date of this Agreement, the standards are: the wastewater shall be considered adequately disinfected if the median number of total coliform organisms in the wastewater after disinfection does not exceed 2.2 per 100 milliliters as determined from the bacteriological results of the last seven days for which analyses have been completed, and the number of total coliform organisms does not exceed 23 per 100 milliliters in any sample.
2. **Reclaimed Water:** means water derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater. For the purpose of this Agreement, reclaimed water shall be further defined as Class A reclaimed water.
3. **Reclamation Criteria:** means the criteria set forth in the Washington State Water Reclamation and Reuse Standards, Publication #97-23 (September 1997) and any subsequent revisions adopted by the Departments of Ecology and the Department of Health, as defined in RCW 90.46.010(12) prior to and during the term of this agreement.

EXHIBIT C

APPROVED USES, USE LOCATIONS,
AND RECLAIMED WATER AVAILABILITY

Approved Reclaimed Water Uses (when used in accordance with the Reclaimed Water Criteria and this agreement): irrigation

Approved Use Location: Grass Field 12 and landscaping area as shown on Exhibit A for approved water uses only.

Quantity, Flow Rate, and Pressure of Class A Reclaimed Water:

Flow Rate Range Available (except as noted in Sections 2.5 and 9.0): 50-200 gpm

Maximum Annual Quantity Usage: 2.5 million gallons per year

Pressure Range: minimum 60 psig and maximum of 95 psig immediately prior to the irrigation system at the Use Location.

Availability of Reclaimed Water:

February 1 – February 29:	Available upon request for emergency irrigation water needs due to unusually dry weather conditions, with 7 days notice
March 1 - March 31:	Tuesday, Wednesday, Thursday
April 1 – October 31:	Seven (7) days per week
November 1 – November 7:	Tuesday, Wednesday, Thursday
November 8 - January 31:	Not available

EXHIBIT D

RATE AND PRICING OF RECLAIMED WATER

King County will deliver reclaimed water to the City of Tukwila as per the terms of the AGREEMENT FOR THE SALE AND DISTRIBUTION OF RECLAIMED WATER BETWEEN THE KING COUNTY DEPARTMENT OF NATURAL RESOURCES AND PARKS AND THE CITY OF TUKWILA dated January 2008.

The cost of delivery to Starfire shall be based upon 80% of the current City of Tukwila commercial/industrial water charge. *The water rates outline below will be adjusted annually based upon any subsequent rate adjustment ordinance by the City.*

Tukwila Commercial/Industrial Potable Water Customer Rates (Effective: January 2015)
Water Commodity Charge per CCF (100 cubic feet)
Tukwila Potable October-May Usage Charge = \$4.38 per CCF
Tukwila Peak June-September Usage Charge = \$6.00 per CCF

Tukwila Commercial/Industrial Reclaimed Water Rates (Effective: January 2015)
Reclaimed Water Commodity Charge per CCF (100 cubic feet)
Reclaimed Water October-May Usage Charge \$3.51 per CCF
Reclaimed Water October-May Usage Charge \$4.80 per CCF

NOTE: Minimum base meter charge also applies according to meter size. Table is found at <http://www.tukwilawa.gov/finance/finutility.html#rates>