



# City of Tukwila Transportation and Infrastructure Services Committee

- ❖ Kate Kruller, Chair
- ❖ Mohamed Abdi
- ❖ Tosh Sharp

<b>Distribution:</b> K. Kruller C. Hougardy T. Sharp H. Ponnekanti S. Kim (email) G. Lerner (email)	City Attorney (email) Clerk File Copy  Place pkt pdf on SharePoint Z Trans & Infra Agendas  email cover to: F. Ayala, A. Le, C. O'Flaherty, A. Youn, B. Saxton, S. Norris, L. Humphrey
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## AGENDA

MONDAY, AUGUST 15, 2022 – 5:30 PM

HYBRID MEETING – ONSITE AND VIRTUAL


DUWAMISH CONFERENCE ROOM, 6300 BUILDING, 2<sup>ND</sup> FLR

MS Teams: [Click here to join the meeting](#)

**Virtual Meeting - Members of the public may listen by dialing 1-253-292-9750 and entering conference ID 96968911# 6300 BUILDING, SUITE 100)**

Item	Recommended Action	Page
<b>1. PRESENTATIONS</b>		
<b>2. BUSINESS AGENDA</b>		
a) Solid Waste Contract Contract Award (H. Ponnekanti)	a) Forward to the 08/22/22 Committee of the Whole and 09/12/22 Regular Consent Agenda	Pg. 1
b) Surface Water Fund – Duwamish Basin Stewardship Interlocal Agreement (M. Perfetti)	b) Forward to the 08/22/22 Special Consent Agenda	Pg. 83
c) S. 131st Place Drainage Improvement Project Design Consultant Selection and Agreement (J. Hopkins)	c) Forward to the 08/22/22 Special Consent Agenda	Pg. 97
d) Macadam Rd S Water Upgrade & Sidewalk Improvements Contract No. 22-015 Amendment No. 1 (A. Altallal)	d) Forward to the 08/22/22 Special Consent Agenda	Pg. 122
<b>3. MISCELLANEOUS</b>		

**Next Scheduled Meeting: August 29, 2022**

 *The City of Tukwila strives to accommodate individuals with disabilities. Please contact the Public Works Department at **206-433-0179** for assistance.*





## INFORMATIONAL MEMORANDUM

TO: **Transportation Infrastructure Services Committee**  
 FROM: **Hari Ponnekanti, Public Works Director/City Engineer**  
 CC: **Mayor Ekberg**  
 DATE: **August 12, 2022**  
 SUBJECT: **Solid Waste Contract**  
**Contract Award**

### ISSUE

Approve a contract with Recology to provide Solid Waste services for the City of Tukwila for November 1, 2023 to October 31, 2033.

### BACKGROUND

The current Comprehensive Solid Waste, Recyclables, and Yard Waste Collection Contract with Waste Management (WM) expires on October 31, 2023. At Council’s direction, staff pursued an open, competitive procurement process, with updates given to the Transportation and Infrastructure Services Committee on October 25, 2021, January 18, 2022, and March 7, 2022.

A request for proposals (RFP) was released on February 7, 2022. Final proposals were received from two proponents (Recology and WM) on May 20<sup>th</sup>, 2022. Proposals from both proponents were reviewed, evaluated, and scored. Recology was the highest-rated proponent and staff proceeded with contract negotiations.

**Table 1. Contract RFP Schedule**

<b>Contract RFP Schedule</b>	<b>Time Frame</b>
Solid Waste Contract Development	November 2021
Industry Review of Draft Contract	December 2021 – January 2022
Resident Survey on Solid Waste Services	December 2021 – January 2022
Solid Waste Collection RFP Released	February 2022
Proposals Due	May 2022
Proposal Evaluation & Selection	May – June 2022
Solid Waste Contract Finalization	June – July 2022
Council Process	August – September 2022
Start of New Contract	November 1, 2023

### DISCUSSION

Proposals were evaluated and scored using the criteria outlined in the RFP with 60 points for the quantitative component and 40 points for qualitative components. The quantitative component was based solely on the base rate proposal. The qualitative components included RFP document review, interviews, field visits, and reference checks.

Highlights from the Recology’s proposal include:

1. Demonstrated service reliability (missed collection rate of .15 per 1,000 customers)
2. Local call center with robust staffing levels and a commitment to dedicated customer service representatives for Tukwila
3. Employee-owned company with commitment to equity and diversity in relation to internal staffing and customer service
4. Business model and philosophy that places diversion of materials from landfill and reduction of contamination as a core and

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founding principle

5. Innovative education and outreach implementation strategies that include building and maintaining relationships with residential and commercial customers with a full-time educational outreach staff committed to Tukwila
6. Expanded list of recyclable items collected at the curb

Feedback from residents on curbside garbage, recycling, and compostables service was collected through a survey in December 2021 and January 2022, and reopened for additional responses in March 2022. Residents ranked reliability of their garbage service provider as the most important element, followed by cost and customer service. Residents voted to keep services similar to what is currently provided, but wanted easier bulky item disposal options and more recycling options for special materials such as batteries and Styrofoam. Survey results were considered in the development of the base contract, evaluation of proposals, as well as during contract finalization.

Both rate proposals indicated a significant rate increase for 2023. The primary reasons for the rate increase include:

- Tukwila has had below market rates for a decade as a fortunate result of the abnormally competitive market present during the last procurement cycle.
- This is a very difficult time to procure new contracts due to uncertainty over the potential of long-term collection costs to outstrip the contract inflation escalator, instability in the current recycling markets, decrease in the value of recyclable materials, future inflation uncertainty, and supply chain issues.

The table below shows the current rates that residents would pay for 32-gallon garbage cart service in various King County cities. This does not take into account embedded services (recycling and/or compost), the frequency of service (weekly vs. every-other-week), number of customers, account density, distance to disposal sites, age of the contract, cross-subsidies between lines of business, or other factors that affect rates.

**Table 2. Regional Rate Comparison**

City	32 Gal Container Monthly Cost *CPI adjustment to be applied
Maple Valley	\$16.82
Issaquah	\$17.44
Negotiated 2023 Tukwila Rates	\$20.35
Kent	\$20.50
Covington	\$21.44
SeaTac	\$21.86
Federal Way	\$22.75
Auburn	\$23.00
Des Moines	\$24.52
Renton	\$24.71
Bellevue	\$25.79
Burien	\$27.57
Kirkland	\$28.45
Carnation	\$28.55
Shoreline	\$28.86
Duvall	\$31.32
Mercer Island	\$33.25
Seattle	\$42.15
<b>Regional Average</b>	<b>\$25.17</b>

City staff proceeded with contract finalization with Recology in June and July 2022. Recology agreed to provide the following additional services at no cost to the City, residents, or businesses:

- Double the amount of garbage and items collected in the free residential annual bulky item collection to 2 cubic yards of garbage and 4 non-appliance bulky items such as couches, tables, and mattresses
- Free drop off of small appliances, electronics, batteries, bikes, books, cooking oil, electronics, fluorescent bulbs, propane canisters, cooking oil and Styrofoam at a Recology store located within 5 miles of City limits (Burien store currently located at

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15858 1st Ave S, Burien, WA 98148)

- Free year of cart-based compostables service with technical assistance for up to 100 multi-family and commercial businesses each year to encourage organics diversion
- Reduced cost for extra yard waste picked up at the curb

Selected monthly garbage customer rates from the new contract are shown below for the common service level for each line of business. These rates do not include King County's new Fixed Annual Charge or any other taxes or fees, which will be applied along with a CPI increase before the contract starts.

**Table 3. Tukwila Monthly Customer Rates**

	<b>2022 Rates</b>	<b>Proposed 11-1-23 Rates</b>	<b>Negotiated 11-1-23 Rates</b>
<b>32 Gallon Single-Family Cart</b> <i>(per month)</i>	\$14.03	\$26.99	\$20.35
<b>4 Cubic Yard Dumpster</b> <i>(per month)</i>	\$252.64	\$420.98	\$407.62
<b>Drop-box</b> <i>(per haul)</i>	\$165.94	\$235.00	\$232.47

The City is proposing an increased Administrative Fee from 2% in the current contract to 6% in the new contract, which is in line with the regional average. These funds will be used for solid waste contract management by hiring dedicated staff for the contract enforcement, pilot programs to increase diversion and meet sustainability goals, and streets projects to maintain and repair damage on residential streets as a result of the large garbage trucks.

**Table 4. Administrative Fees**

<b>City</b>	<b>Administrative Fee</b>
Maple Valley	2.3%
Bellevue	2.99%
Federal Way	3.2%
SeaTac	5.3%
Proposed Tukwila Admin Fee	6.0%
Duvall	9.0%
Des Moines	13.0%
<b>Regional Average</b>	<b>5.97%</b>

The draft final contract is attached as Attachment A.

## **FINANCIAL IMPACT**

The solid waste contract is a service provided to the Tukwila residential and commercial customers and the hauler is reimbursed for their service directly by the user. There is no negative impact to the City's general fund budget. The solid waste collection rates have gone up to keep up with the industry changes and cost of living expenses.

## **RECOMMENDATION**

Staff recommends that Council approves the 2023-2033 Comprehensive Solid Waste, Recycling, and Compostables Collection Contract with Recology and consider this item at the August 22, 2022 Committee of the Whole and subsequent September 12, 2022 Consent Agenda.

Alternative options:

1. Direct staff to negotiate contract changes with Recology
2. Begin discussions with an alternative party.

**ATTACHMENT:** Draft Contract

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

**City of Tukwila  
and  
Recology King County, Inc.**

**November 1, 2023 – October 31, 2033**

**Comprehensive Garbage, Recyclables, and Compostables  
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- EXHIBIT B: Contractor Rates
- EXHIBIT C: Recyclables List
- EXHIBIT D: Rate Modification Example

## RFP DRAFT

This Comprehensive Garbage, Recyclables, and Compostables Collection Services Contract (hereafter, "Contract"), passed by the Tukwila City Council at its regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2022. This Contract is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (hereafter the "Date of Execution"), by and between the City of Tukwila, a municipal corporation (hereafter "City"), and Recology King County, Inc. (hereafter "Contractor").

### RECITALS

WHEREAS, the City has conducted a competitive process to select a contractor to provide Garbage, Recyclables, and Compostables collection services ("Services") to all residents, businesses, and institutions located within the Service Area; and

WHEREAS, the Contractor, having participated in the competitive process, acknowledges that the City conducted a thorough and exhaustive competitive process; and

WHEREAS, the Contractor, having participated in the competitive process, acknowledges that the City had the right at any time during the process to reject any or all of the competitors, regardless of their proposals or prices; and

WHEREAS, having completed the competitive process, the City has selected the best candidate to provide the Services outlined in the competitive process; and

WHEREAS, the Contractor represents and warrants that it has the experience, resources, and expertise necessary to perform the Services as requested in the competitive process; and

WHEREAS, the City desires to enter into this Contract with the Contractor for the Services outlined in the competitive process and included below;

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

### AGREEMENT

#### 1. DEFINITIONS

The following definitions apply to terms used in this Contract:

**Administrative Fee:** A City-defined fee that is included in Customer rates charged by the Contractor, with receipts collected from Customers by the Contractor and remitted to the City as directed in this Contract. The Administrative Fee is separate from and distinct from any itemized utility, sales, or other taxes that may be assessed from time to time.

**Bulky Waste:** Discrete items of Garbage of a size or shape that precludes collection in regular collection Containers. Bulky Waste includes: large appliances (such as refrigerators, freezers, stoves, dishwashers,

clothes washing machines or dryers), water heaters, furniture (such as chairs, tables, shelves, cabinets or sofas), televisions, mattresses, and other similar large items placed at the Curb as discrete separate items. Bulky Waste does not include piles of debris, car parts, construction or demolition debris, Unacceptable Waste, or stumps.

**Call Center Hours:** The times during which a live person Customer Service support shall be available to address Customer calls, e-mails, texts, or other communications. Call Center Hours shall be 7:00 a.m. PST through 7:00 p.m. PST, Monday through Friday of each week and no less than four hours on Saturdays, as agreed upon by the City and Contractor. Holidays, as defined by King County transfer stations, are excluded.

**Can:** A receptacle that is a Customer-provided water-tight galvanized sheet-metal or 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. All Cans shall be rodent and insect-resistant and kept in sanitary conditions by their owner at all times.

**Cart:** A Contractor-provided twenty (20), thirty-two (32)/or thirty-five (35), forty-five (45), sixty-four (64), or ninety-six (96) gallon wheeled receptacle with attached lid suitable for collection, storage, and Curbside placement of Garbage, Recyclables, or Compostables. Carts shall be rodent and insect-resistant.

**Change of Control:** Any single transaction or series of related transactions by which the beneficial ownership of more than fifty percent (50%) of the voting securities of the Contractor is acquired by a person or entity, or by a related or affiliated group of persons or entities, who as of the effective date of the Contract do not have such a beneficial interest; provided, however, that intra-company 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 the Contract, and transactions effected on any securities exchange registered with the U.S. Securities and Exchange Commission, shall not constitute a Change in Control.

**City:** City of Tukwila, in King County, Washington. As used in the Contract, use of the term “City” may include reference to the City Administrator or his/her designated representative. Where the context makes it apparent, references to staff, streets, rights-of-way, activities and things refer to the staff, streets, rights-of-way and activities of the City, and things belonging to or located within the City.

**Commercial Customer:** Non-Residential Customers, including businesses, institutions, governmental agencies, and all other users of commercial-type Garbage collection services.

**Compostables:** Any organic waste material that is Source-separated for processing or composting, such as Yard Debris, clean scrap wood, and Food Scraps generated by any Residential, Multifamily or Commercial Customers. Shredded uncontaminated paper shall be accepted as a Compostable material unless disallowed by the Contractor’s composting processor.

**Contractor:** Recology King County, Inc, which has contracted with the City to provide all Services identified in this Contract, including, but not limited to, collecting, transporting, and disposing of Garbage and collecting, processing, marketing, and transporting of Recyclables and Compostables.

**Container:** Any Micro-can, Can, Cart, Detachable Container, or Drop-box Container used in the performance of this Contract, including both loose and compacting Containers.

**Contract:** This Contract for comprehensive Garbage, Recyclables and Compostable collection services.

**Contract Term:** Term of this Contract as provided for in Section 2.

**County:** King County in Washington State.

**Curb or Curbside:** Customers' property, within five feet (5') of the Public Street or Private Road (or on the sidewalk without completely obstructing the sidewalk, if there is no Customer property within five feet (5') of the Public Street or Private Road) without blocking driveways or on-street parking. If extraordinary circumstances preclude such a location, Curbside shall be considered a placement suitable to the Customer, convenient to the Contractor's equipment, and mutually agreed to by the City and Contractor.

**Customer:** All account-holders of the Contractor's services within the City as set forth in this contract.

**Customer Service:** The assistance, advice and information provided by the Contractor to Customers and potential customers within the City.

**Date of Commencement of Service:** November 1, 2023, which is the date that the Contractor agrees to commence the provision of Services as described throughout this Contract.

**Date of Execution:** The date that this Contract is executed by all signatories.

**Day/Days:** Calendar days unless otherwise specified.

**Detachable Container:** A watertight metal or plastic loose or compacting receptacle 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.

**Driveway:** A privately-owned and maintained way that connects a Residence or parking area/garage/carport with a Private Road or Public Street.

**Drop-box Container:** A watertight all-metal loose material or compactor receptacle with ten (10) cubic yards or more capacity that is loaded onto a specialized collection vehicle.

**Environmental Law:** Any applicable federal, State, or local statute, code, or ordinance or federal or State administrative rule, regulation, ordinance, order, decree, or other governmental authority as now or at any time hereafter in effect pertaining to the protection of human health or the environment.

**Extra Unit:** Excess material that does not fit in the Customer's primary Container. An Extra Unit is equal to thirty-two (32) gallons for all Customers.

**Fixed Annual Charge:** The charge assessed on the Contractor by the County on an annual basis that is allocable to the City Service Area to fund certain elements of the County's disposal system, in accordance with King County Ordinance 2021-0449. Contractor's Customer charges shall include a Fixed Annual

Charge component that shall be calculated in accordance with this Contract and Contractor's receipts of the Fixed Annual Charge component, less the Administrative Fee and excise tax on the Administrative Fee that are included in the Fixed Annual Charge component, shall be used by Contractor to satisfy its obligations to County for payment of the Fixed Annual Charge.

**Food Scraps:** All compostable pre- and post-consumer food waste, 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 products accepted by the Contractor's selected composting site. Food Scraps shall not include dead animals, plastics, diapers, cat litter, liquid wastes, ashes, pet wastes, or other materials prohibited by the selected composting facility. The range of Food Scraps handled by the Compostables collection program may be changed from time to time upon the mutual agreement of the Parties to reflect those materials allowed by the jurisdictional health department for the frequency of collection provided by the Contractor.

**Garbage:** All putrescible and non-putrescible solid and semi-solid wastes, including, but not limited to, rubbish, small quantities of bagged cold ashes, demolition and construction wastes, dead small animals completely wrapped in plastic and weighing less than fifteen (15) pounds, and discarded commodities that are placed by Customers in appropriate Containers, bags, or other receptacles for collection and disposal by the Contractor. Needles or "sharps" used for the administration of medication can be included in the definition of "Garbage," provided that they are placed within a sealed, secure container as agreed upon by the City and the Contractor and this handling is consistent with current King County sharps policy. The term "Garbage" shall not include Hazardous Waste, Source-separated Recyclable materials, or Source-separated Compostables.

**Hazardous Waste:** Any hazardous, toxic, or dangerous waste, substance, or material, or contaminant, pollutant, or chemical, known or unknown, defined or identified as such in any existing or future federal, State, or local law, statute, code, ordinance, rule, regulation, guideline, decree, or order relating to human health or the environment or environmental conditions, including but not limited to any substance that is:

- A. Defined as hazardous by 40 C.F.R. Part 261.3 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., as may be amended; 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 WAC 173-303-040, as may be amended, 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 State statute, regulation or rule governing the treatment, storage, handling, or disposal of wastes and imposing special handling requirements similar to those required by Chapter 70.105 RCW; and

- C. Any substance that comes within the scope of this definition after the Date of Execution of this Contract.

Any substance that ceases to fall within this definition after the Date of Execution of this Contract shall not be deemed to be Hazardous Waste.

**King County Disposal System:** The areas owned, leased, or controlled by King County, Washington for the disposal of Garbage, or such other site as may be authorized by the current King County Comprehensive Solid Waste Management Plan and the Interlocal Agreement between the City and King County.

**Micro-Can:** A water-tight plastic Container not exceeding ten (10) gallons in capacity; fitted with two sturdy handles, one on each side; and fitted with a tight cover.

**Multifamily:** A multiple-unit Residence with multiple attached or unattached dwellings billed collectively for collection service. This includes shared Containers as well as individual Containers for each Residence.

**Office Hours:** The times during which a Contractor administrative and management staff shall be available to respond to City staff inquiries. Office Hours shall be 8:00 a.m. PST through 5:00 p.m. PST, Monday through Friday of each week. Holidays, as defined by King County's transfer station schedule, are excluded.

**On-call:** The provision of specified services only upon direct phone, written, or e-mailed request of the Customer to the Contractor.

**Party:** Either the City or the Contractor.

**Parties:** The City and Contractor.

**Private Road:** A privately-owned and maintained way that allows for access by a service vehicle and that serves multiple Residences.

**Public Street:** A public right-of-way used for public travel by motor vehicle, including public alleys.

**Recycling:** The preparation, collection, transport, processing, and marketing of Recyclables.

**Recyclables:** The materials designated as being part of a Residential or Commercial Recycling collection program, as listed in Exhibit C.

**Residence/Residential:** A Single-Family and/or Multifamily living space individually rented, leased or owned.

**Services:** The comprehensive Garbage, Recyclables, and Compostables collection and processing services provided by the Contractor pursuant to the Contract.

**Service Area:** The initial service area boundaries shall be a portion of the corporate boundaries of the City, which are currently as shown on Exhibit A hereto. In the event of a change to the corporate boundaries of the City, the Service Area may be changed in accordance with Section 4.1.1.

**Single-Family Residence:** All one-unit houses, duplexes, triplexes, four-plexes, and mobile homes that are billed for collection service individually and located on a Public Street or Private Road.

**Source-separated:** 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.

**State:** The State of Washington.

**Strike Contingency Plan:** The plan the Contractor will develop pursuant to Section 4.1.18 of this Contract.

**Tipping Fee:** The per-ton disposal fee assessed on the Contractor by the County for Garbage delivered to County disposal facilities.

**Transition and Implementation Plan:** The plan that the Contractor will develop pursuant to Section 4.1.21 of this Contract.

**Unacceptable Waste:** Highly flammable substances, Hazardous Waste, liquid wastes, special wastes, certain pathological and biological wastes, explosives, toxic materials, radioactive materials, material that the disposal facility is not authorized to receive and/or dispose of, and other materials deemed by federal, State, or local law, or in the reasonable discretion of the Contractor, to be dangerous or threatening to health or the environment, or which cannot be legally accepted at the applicable disposal facility.

**WUTC:** Washington Utilities and Transportation Commission.

**Yard Debris:** Leaves, grass, prunings, branches and small trees. Materials larger than four inches (4") in diameter or four feet (4') in length are excluded. Bundles of Yard Debris up to two feet (2') in diameter by four feet (4') in length and no more than fifty-five (55) pounds, shall be allowed, and shall be secured by degradable string or twine, not nylon or other synthetic materials. Un-flocked, undecorated whole Christmas trees cut to less than six feet (6") in height are acceptable. Kraft paper bags, or Cans labeled "Yard Debris" may also be used to contain extra Yard Debris.

## **2. TERM OF CONTRACT**

The Term of this Contract is ten (10) years starting on the Date of Commencement of Service. The City may, at its sole option, extend the agreement for one extension which shall not exceed two (2) years in duration. The 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.

## **3. CONTRACTOR REPRESENTATIONS AND WARRANTIES**



The Contractor represents and warrants to the City as follows:

- *Organization and Qualification.* The Contractor is duly incorporated, validly existing, and in good standing under State laws, and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
- *Authority.* This Contract has been validly executed by an authorized representative of the Contractor, with the authority to sign on behalf of and bind the Contractor, and this Contract constitutes a valid and legally binding and enforceable obligation of Contractor.
- *Government Authorizations and Consents.* The Contractor has or will obtain at its sole cost prior to the Date of Commencement of Service any such licenses, permits, and other authorizations from federal, State, and other governmental authorities, as are necessary for the performance of its obligations under this Contract.
- *Accuracy of Information.* None of the representations or warranties in this Contract, and none of the documents, statements, reports, certificates, or schedules furnished or to be furnished by the Contractor pursuant to this Contract or in connection with the performance of the obligations contemplated under this Contract, at any time contain untrue statements of a material fact or omissions of material facts.
- *Independent Examination.* In accepting these responsibilities, the Contractor represents and affirms that it has made its own examination of all conditions affecting the performance of this Contract, currently and into the future, and of the quantity, quality, and expense of labor, equipment, vehicles, facilities, properties, materials needed, and of applicable taxes, permits, and applicable laws. The Contractor affirms that within the Service Area it is aware of the present placement and location of all Containers. The Contractor represents and warrants that it is capable of collecting all Containers from their present locations, and that it is capable of providing service to and collection of Containers in any areas of the Service Area that may be built out or developed during the term of this Contract.

## **4. SCOPE OF WORK**

### **4.1 General Collection System Requirements**

#### **4.1.1 Service Area**

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

If, during the term of the Contract, additional territory is added to the City through annexation or other means within which the Contractor has an existing WUTC certificate or other franchise for solid waste collection at the time of annexation, the Contractor shall, from the date of annexation, make collection in the annexed area in accordance with the provisions of this Contract at the unit prices set forth in this Contract.

This Contract is in lieu of a franchise as provided in RCW 35A.14.900. The Contractor agrees that their WUTC certificate applicable to such additionally annexed territory areas shall be cancelled effective on

the date of annexation by the City. The Contractor expressly waives and releases its right to claim any and all damages or compensation from the City, its officers, agents, or assigns arising out of the cancellation of any pre-existing permit or franchise held by the Contractor prior to annexation, and further specifically waives the right to receive any additional compensation or any rights of collection in the newly annexed territory. The term during which the Contractor shall service any future annexation areas shall be seven (7) years from the date of annexation, notwithstanding the term set forth in Section 1 of this Contract. If, during this seven (7) year period, this Contract terminates for any reason, and a new service provider is engaged to provide collection services under the terms of a new collection contract, the Contractor agrees to provide the services outlined in the new contract to customers in the annexed area in accordance with the provisions of that new collection contract at the unit prices set forth in that new collection contract, through the duration of the seven (7) year period, unless such area has been transferred to the new service provider prior to the end of that seven (7) year period.

If, during the term of the Contract, additional territory is added to the City through annexation within which the Contractor does not have an existing WUTC certificate or other franchise for Garbage or other collections, then, upon written notification from the City, the Contractor agrees to make collections in such annexed areas in accordance with the provisions of this Contract at the unit price set forth in this Contract. The City will indemnify, hold harmless and defend the Contractor from any and all claims, actions, suits, liability, loss, costs, expenses and damages, including costs and attorney fees arising out of the Contractor's service in such annexed territory under this Contract.

In the event that additional territory is added to the Contract Service Area, the City acknowledges that equipment, such as Contract-compliant vehicles and Containers, may take time to procure; and therefore, shall not charge performance fees as outlined in Section 6.1 to the Contractor for reasonable delays in the provision of services to annexed areas covered by this section due to procurement delays that are not within the control of the Contractor.

#### **4.1.2 Service to Residences on Private Roads and Driveways**

The Contractor shall provide Curbside service to all Residences located on Private Roads, except as noted in this Section. Drive-in charges are to be used only for requested service on Driveways and are prohibited on Private Roads. The Contractor shall use smaller limited-access service vehicles as necessary to provide service to those Customers.

In the event that the Contractor believes that a Private Road cannot be safely negotiated or that providing walk-in service on Driveways for Single-Family Residence Customers is impractical due to distance or unsafe conditions, the Contractor shall document the condition for the City and Customer and provide safe and appropriate alternative service to the Customer.

If the Contractor believes that there is a probability of Private Road or Driveway damage due to the Contractor's vehicles, the Contractor shall inform the respective Customer(s) and may require a road damage waiver agreement in a form previously approved by the City. In such event, if the Customer(s) refuse to sign such a road damage waiver, the Contractor may decline to provide service on those Private Roads or Driveways, and the Customer(s) will only be serviced from the closest Public Road access.

#### **4.1.3 Hours/Days of Collection**

All Residential collections by Contractor shall be made between the hours of 7:00 a.m. and 7:00 p.m. PST on each weekday, unless the City authorizes a temporary extension of hours or days. Saturday collection is allowed to the extent consistent with holiday schedules (Section 4.1.6) and inclement weather schedule (Section 4.1.7).

The Contractor may perform Commercial collections twenty-four (24) hour per day, provided such services do not take place in areas adjacent to Residential dwellings and do not result in noise complaints to the Contractor or City from Residential Customers in the vicinity. If complaints are received, the Contractor shall use its best efforts to reroute or otherwise mitigate the noise complaint.

#### **4.1.4 Employee Conduct**

The Contractor's employees collecting Garbage, Recyclables, or 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 and private property. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return all Containers, in an upright position, with lids closed and attached, to their original set-out location.

If on private property, Contractor employees shall follow the regular pedestrian walkways and paths, returning to the street after replacing empty Containers. Contractor employees shall not trespass or loiter, cross flowerbeds, hedges, planting strips, 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, Contractor employees shall wear a professional and presentable uniform with a company emblem visible to the average observer, and carry photo identification on their person.

At the City's option and direction, Contractor employees shall work with groups or organizations, such as neighborhood community organizations, homeowner associations, or the City's Utilities, Police, or Fire Departments, for training to recognize and call the appropriate agency when suspicious activities are observed.

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 promptly investigate any written complaint from the City regarding any unsatisfactory performance by any of its employees and take immediate corrective action. The City reserves the right to request at any time that the person be removed from all performance of additional work under this Contract. The Contractor shall remove the employee from Contract work within four (4) hours of City notification.

#### **4.1.5 Disabled Persons Service**

The Contractor shall provide carry-out service for Garbage, Recyclables, and Compostables to Single-Family Residence Customers in cases where no household member has the ability to place Containers at the Curb, at no additional charge. The Contractor shall establish criteria that are fair and meet the needs of the City's disabled residents when determining whether a household member is unable to place Containers at the Curb. These criteria shall comply with all federal, State, and local regulations, and shall be subject to City review and approval prior to program implementation.

#### **4.1.6 Holiday Schedules**

The Contractor shall observe the same holiday schedule as the King County transfer stations. When observed holidays fall on a regular collection day, the Contractor shall reschedule the remainder of the week of regular collection to the next succeeding business day, which shall include Saturdays. The Contractor may not collect Single-Family Residence and Multifamily Garbage, Recyclables, or Compostables earlier than the regular collection day due to a holiday. Commercial collections may be made one (1) day early only with the consent of the Commercial Customer. Holiday scheduling information shall be included in written program materials, on the Contractor's website, on the Contractor's social media accounts, and by press releases to general news media in the Service Area by the Contractor the week prior to the holiday affecting service.

#### **4.1.7 Inclement Weather and Other Service Disruptions**

When weather conditions are such that continued operation would result in danger to the Contractor's employees, area residents or property, the Contractor shall collect only in areas that do not pose a danger. The Contractor shall notify the City by 7:00 a.m. PST that same business day of its collection plans and outcomes for each day that severe inclement weather is experienced.

The Contractor shall collect Garbage, Recycling and Compost from Customers with interrupted service on the first day that regular service to a Customer resumes and shall collect reasonable accumulated volumes of Garbage, Recycling, and Compost 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 p.m. PST 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 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 and Recycling collection sites using driver-staffed Drop Box Containers or other suitable equipment, with no additional charge assessed for such temporary service.

The inclement weather/disruption in service requirements in this Section 4.1.7 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 of service suspension and alternative collection schedules to a media list approved by the City notifying residents of the modification to the collection schedule. The Contractor shall use automated dialing services e-mail, or text messages to inform Customers at the route level about service changes, provided that Customers shall be provided the option of using their preferred method or to opt out of communications. Contractor shall update their website with inclement weather conditions by 8:00 a.m. PST.

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 p.m. PST 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 6.

#### **4.1.8 Suspending Collection from Problem Customers**

The City and Contractor acknowledge that, in rare cases, some Customers may cause disruptions or conflicts that make continued service to that Customer unsafe or unreasonable. Those disruptions or conflicts may include, but not be limited to, repeated damage to Contractor-provided Containers, threatening or intimidating behavior toward the Contractor, repeated suspect claims of timely set-out followed by demands for return collection at no charge, repeated unsubstantiated claims of Contractor damage to a Customer's property, repeated contamination of Recyclables or Compostables, or other such problems.

The Contractor shall make every reasonable effort to provide service to problem Customers. However, the Contractor may discontinue service to a problem Customer after prior written notice is given to the City of the intent to discontinue service, including the name, service address, reason for such action, and whether reasonable efforts to accommodate the Customer and provide services have occurred and failed. If the Customer submits a written letter or e-mail 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 discontinuance of service to any Customer who is abusing the service or is determined to be ineligible.

#### **4.1.9 Missed Collections**

If Garbage, Recyclables, or Compostables are set out inappropriately, improperly prepared, or contaminated with unacceptable materials, the Contractor shall place in a prominent location a written notification tag that identifies the specific problem(s) and reason(s) for rejecting the materials for collection. Failure to provide proper written notification to Customers, per the contamination reduction program referenced in Section 4.1.11, of the reason for rejecting Garbage, Recyclables, or Compostables shall be considered a missed collection and subject to performance fees, as established in Section 6.1, due to lack of proper Customer notification. The specific provisions in this paragraph may be revised and superseded by the annual promotion and education program (and contamination reduction plan) developed each year by the Contractor and City.

The failure of the Contractor to collect Garbage, Recyclables, or Compostables that has been set out by a Customer in the proper manner on the appropriate day shall be considered a missed collection, and the Contractor shall collect the materials from the Customer within one (1) business day of the Contractor's receipt of notification of the missed pick-up. If the Contractor is notified of a missed pick-up by 9:00 a.m. PST the following business day, the missed pick-up shall be collected that same day. The Contractor shall maintain an electronic record of all calls related to missed collections and the response provided by the

Contractor. Such records shall be made available for inspection upon request by the City, and the information shall be included in monthly reports. (See Reporting requirements set forth in Section 4.3.4).

If the Contractor is requested by the Customer to make a return trip due to no fault of the Contractor, which the Contractor can prove through documentation (e.g., the Containers were not placed at the curb on time and the driver documented that fact in a log, with a photograph, etc.), the Contractor shall charge the Customer an additional return trip fee for this service, provided the Contractor notifies the Customer of this charge in advance and the Customer agrees to payment of the return trip fee. The Contractor will not be liable for a missed collection in such case.

#### **4.1.10 Same Day Collection**

Collection of Garbage, Recyclables, and Compostables shall occur on the same regularly scheduled day of the week for Single-Family Residence Customers. Collection of Garbage, Recyclables, and Compostables for Multifamily and Commercial Customers can be scheduled on different days for each material.

#### **4.1.11 Requirement to Recycle and Compost and Quality Assurance**

The Contractor shall use processing facilities to recycle or compost all Source-separated Recyclables and Compostables collected under this Contract (other than residue), unless express prior written permission is provided by the City. The Contractor shall use processing facilities that:

1. Process materials to a high standard to maximize the recovery and recycling of all incoming Recyclable and Compostable materials;
2. Are operated to minimize cross-contamination of materials that would result in otherwise Recyclable materials being misdirected to a market or disposal where they would not be recovered;
3. Are designed and operated to minimize the stream of otherwise recoverable materials destined for disposal.
4. Have sufficient preprocess and screening staff and equipment to ensure that otherwise recoverable materials are not cross-contaminated and rendered non-recyclable due to the nature of the processing facility.

The City and Contractor agree that the Contractor is being compensated to fully recycle or compost those incoming materials and that maximum cost-effective recovery is a primary objective of the City's collection programs.

The Contractor shall visually inspect Recyclables and Compostables Containers before or during servicing. If the Container contains more than five percent (5%) contamination, the Contractor shall document the contamination and leave an "oops" tag, noting the specific contamination for the Customer. If a Customer received more than three (3) oops tags in a ninety (90) day period, then the Contractor will call the Customer to provide education and outreach services.

The Contractor shall develop and implement a contamination reduction program to reduce contamination in Customers' Recyclables and Compostables Containers. The Contractor's program shall include communication, education and outreach to Customers, methods for evaluating Customer compliance with recycling and contamination standards, and thresholds and policies for removing or re-establishing Recyclables and/or Compostables collection service to a customer. If the contamination reduction

program does not result in a measurable decrease in contamination after a year, the program shall be adjusted or a new program shall be developed to address contamination. The Contractor shall develop the program in consultation with the City, and shall implement the program on approval of the program by the City. The program may be reviewed and adjusted at any time, if both Parties agree that review and adjustment is appropriate.

Contractor shall provide such information as the City may request regarding aggregate contamination data that is collected and maintained by the Contractor on a quarterly basis. However, notwithstanding the foregoing or any other provision of this Agreement, the Contractor shall not provide any information to City regarding the contents of any individual Customer's Container.

#### **4.1.12 Routing, Notification and Approval**

The Contractor shall indicate, on a 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 to and obtaining written approval from the City. On the City's approval, the Contractor shall provide affected Customers with at least fourteen (14) Days written, phone, and/or e-mail 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, such approval shall not be unreasonably withheld. Routing changes shall be implemented in a manner that ensures that no Customer shall receive less than their normal frequency of service (e.g. a weekly Customer shall have no more than seven [7] days between collection days during the shift to the new collection date).

#### **4.1.13 Vehicle and Equipment Type/Age/Condition/Use**

The Contractor shall use new 2023 or later model year collection vehicles for Garbage, Recyclables, and Compostables collection services performed under this Contract. Back-up collection vehicles used fewer than thirty (30) Days a calendar year shall not be subject to the age requirement that applies to regularly-used vehicles, but shall be: (i) presentable, (ii) in safe working order, (iii) not leak fluids, and (iv) 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.

Collection vehicles used in the performance of this Contract shall be of sufficient size and dimension to provide service to all Customers. In some cases, this may mean that a small collection vehicle, capable of servicing narrow and/or tight locations must be used, and the Contractor shall make such vehicles available to ensure smooth and effective collection services throughout the Service Area.

Collection vehicles shall have a switchable placard that clearly indicates the material stream currently being collected by that vehicle. The colors, trim scheme, and design to be used by the Contractor on the switchable placards shall be subject to the prior written approval of the City. The lack of switchable placards on collection vehicles shall be cause for performance fees as described in Section 6.1.

Collection vehicles shall be maintained in a good condition at all times which includes but is not limited to being clean and sanitary, and shall be thoroughly washed at least once each week. All collection vehicles 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. Collection vehicles shall be repaired and/or have damaged areas repainted upon showing rust on the body or chassis or at the request of the City. All parts and systems of the collection vehicles shall operate properly and be maintained in a condition compliant with all federal, State, and local safety requirements and be in a condition satisfactory to the City. All collection vehicles shall be equipped with variable tone or proximity activated reverse movement back-up alarms.

The Contractor shall maintain collection vehicles and Containers to ensure that no liquid wastes (e.g., Garbage or Compostables leachate) or oils (e.g., lubricating, hydraulic, or fuel) are discharged to Customer premises or streets. All collection, service, and supervisory vehicles used by the Contractor shall be equipped with a minimum 10-gallon capacity spill kit. Any collection, service, and supervisory vehicles, or Containers not meeting these standards shall not be used within the Service Area until repairs are made.

All collection vehicles shall be labeled with signs on both the front and driver's side door and the rear of the collection vehicle which clearly indicate the vehicle inventory number. The Customer Service phone number shall be labeled on the side of the collection vehicle. Signs shall use lettering not less than four inches (4") high and shall be clearly visible from a minimum distance of twenty feet (20'). Signs, sign locations and the phone 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 phone number and website address, unless otherwise previously approved in writing by the City. Special promotional messages may be permitted, upon the City's prior written approval. The City's approval shall be in writing and solely within the City's discretion. In addition, any Contractor 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, for example T-1, T-2, etc., limited to a two (2) digit numeral to aid in rapid identification of vehicles to allow more precise reporting and correction of any unsatisfactory condition related to specific vehicles. All Contractor collection, 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. Collection vehicles shall also be equipped with back-up cameras, as well as route-recording cameras integrated with their on-board route management system.

All collection vehicles shall be equipped with global positioning systems (GPS), as well as an on-board computer and data tracking system to track route progress and log non-set-outs, extras, and other service issues. The system shall incorporate photo documentation of route exceptions. The Contractor's drivers shall be fully trained and required to use these systems. The resulting data shall be uploaded to the Contractor's Customer Service database no less than daily to allow Customer Service personnel to be fully apprised of route progress, and be able to address misses and other Customer inquiries in near real-time.

The Contractor shall provide to the City, on the Date of Commencement of Service of this Contract, a complete initial inventory of the vehicles and facilities to be used in the performance of this Contract. The inventory shall include each vehicle (including chassis model year, type of body, material collected, capacity, model, and vehicle identification number) and each facility to be used in performance of this Contract (including address and purpose of the facility). The Contractor may change vehicles and facilities from time to time, and shall include the revised inventory in the monthly report provided for in Section 4.3.4.1. The Contractor shall maintain vehicles and facilities levels during the performance of this Contract



at least equal to those levels described in the initial inventory. The City reserves the right to request maintenance history logs for vehicles or equipment during the performance of this Contract.

#### **4.1.14 Container Requirements and Ownership**

Contractor Garbage fees included in Exhibit B include all costs of the associated Containers unless Container rental for a particular service is specifically listed in Exhibit B, such as rent for Drop-box Containers.

Single-Family Residence, Multifamily, and Commercial Customers must use Contractor-provided Containers for their initial Container of Garbage collection service, with the exception of compacting Drop-box Containers, which may be Customer-owned or Customer-leased from other parties. Plastic bags or Cans may be used for excess volumes of Garbage, but not as a Customer's primary container.

In the event the Customer uses a Can for Extra Units, the Contractor shall handle the Customer-owned Can in such a way as to prevent undue damage. The Contractor shall be responsible for unnecessary or unreasonable damage to or for unrequested removal of Customer-owned Containers.

All Contractor-provided Containers shall be permanently, clearly, and prominently screened, molded-in, molded-on, imprinted, or otherwise labeled in a fashion that any reasonable person can readily determine the intended material for the Container. The Container must also be labeled with the size capacity and material preparation requirements. Contractor-provided Containers shall not be screened, molded-in, molded-on, imprinted, or otherwise permanently labeled with the Contractor's logo or company name unless the City provides written permission.

##### **4.1.14.1 Garbage, Recyclables, and Compostables Carts**

The Contractor shall provide a Micro-can, or twenty (20), thirty-two (32) or thirty-five (35), forty-five (45), sixty-four (64), and ninety-six (96) gallon Garbage Carts for the respective level of Garbage collection, thirty-two (32) or thirty-five (35), sixty-four (64), and ninety-six (96) gallon Recycling Carts for Recyclables collection, and thirty-two (32) or thirty-five (35), sixty-four (64), and ninety-six (96) gallon Compostables Carts for Compostables collection. The City shall transfer ownership of existing in-place Carts to the Contractor, and the Contractor shall wash and re-label all Carts no later than January 30, 2024. All replacement Carts shall be manufactured from a minimum of fifteen percent (15%) post-consumer recycled plastic, with a lid that will accommodate a label. Carts shall be provided to requesting Customers within seven (7) Days of the Customer's initial request. All Carts must have materials preparation instructions including any Customer actions that would void manufacture warranties (such as placement of hot ashes in the container causing the container to melt), procedures to follow to minimize potential fire problems, and phone and website contact information printed on a sticker on the lid. If this sticker is destroyed or removed, Contractor shall replace the sticker within seven (7) Days of being notified by the Customer or City.

All Contractor-provided Carts shall be maintained by the Contractor in good condition for material storage and handling; contain no jagged edges or holes; contain wheels or rollers for movement and be equipped with an anti-skid device or sufficient surface area on the bottom of the Container to prevent unwanted movement.

Collection crews shall note missing or damaged lids, damaged hinges, holes, missing or poorly functioning wheels, and other similar repair needs for Contractor-provided Carts (including those for Garbage, Recyclables, and Compostables), and forward written or electronic repair notices that same day to the Contractor's service personnel. Repairs shall then be made within seven (7) Days at the Contractor's expense. Any Cart that is damaged or missing on account of an accident, collection truck mechanical error, act of nature or the elements, fire, or theft or vandalism by a third party shall be replaced not later than three (3) business days after notice from the Customer or the City. In the event that a Cart is inadvertently lost into a collection vehicle during collection due to mechanical or operator error, Customers shall be notified on the same day via a door knocker tag of the incident and a replacement Cart shall be provided within twenty-four (24) hours of the loss. Replacement Carts may be used and reconditioned, but shall be presentable and cleaned before delivered to the Customer. Unusable Containers shall be cleaned (if necessary) and recycled to the extent possible.

In the event that a Customer repeatedly damages a Container or requests more than one replacement Container during the term of the Contract due to 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 charge the Customer a City-approved Container repair or replacement fee and/or discontinue service to that Customer, provided the City provides previous written approval.

#### **4.1.14.2 Detachable Containers and Drop-box Containers**

The Contractor shall furnish and install one (1), one and a half (1.5), two (2), three (3), four (4), six (6), and eight (8) cubic yard Detachable Containers, and ten (10), fifteen (15), twenty (20), twenty-five (25), thirty (30), and forty (40) cubic yard un-compacted 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 Customer's request. Containers shall be located on the premises in compliance with any related ordinance, and a manner satisfactory to the Customer and for collection by the Contractor.

The Contractor shall charge rent for temporary and permanent Drop-box Container service in accordance with Exhibit B. The Contractor may not charge Customers any additional fees, charges, rates, or any expenses in connection with Drop-box Container service other than the applicable fees listed in Exhibit B.

Detachable Containers shall be watertight and equipped with tight-fitting metal or plastic covers; have four (4) wheels for Containers four (4) cubic yards and under unless site-specific concerns dictate the use of a non-wheeled Container; be in good condition for Garbage or Recyclables storage and handling; be safe for the intended use; 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 winch in good repair.

Detachable Containers shall be cleaned, reconditioned, and repainted (if necessary), at the Contractor's expense before being supplied to a Customer who had not used it earlier. The Contractor shall provide a fee-based On-call Detachable Container cleaning service to Customers.

As between the Contractor and the City, all Containers on Customers' premises are at the Contractor's risk and not the City's. The Contractor shall repair or replace within one (1) business day any Container that was supplied by or taken over by the Contractor and was in use if the City Code Compliance Inspector,

King County Health Department Inspector, or other agent having safety or health jurisdiction determines that the Container fails to comply with reasonable standards or constitutes a health or safety hazard.

The Contractor shall place Detachable Containers in areas mutually agreed upon by the Contractor and Customer with the least slope and best vehicle access possible. For Customers that must stage their Detachable Containers on Public Streets or on significantly sloped hills, the Contractor shall make a good faith effort to work with the Customer to ensure that Detachable Containers are not left unattended in potentially problematic staging areas and are sufficiently restrained such that the Container may not roll and cause harm to persons or property. The Contractor may require a Customer to attend to the Containers immediately prior to and after collection. Any disputes arising between the Contractor and a Customer as to what constitutes a “significantly sloped hill” or a “safety hazard” shall be submitted in writing to the City, and the City’s decision shall be final. Containers shall be replaced after emptying in the same location as found, with the lid closed.

Customer Containers shall be supplied by the Contractor, with the exception of compactors. Customers may elect to own or secure secondary Containers from other sources, and shall not be subject to discrimination by the Contractor in collection services on that account, provided that such Containers (including Carts) are compatible with the Contractor’s collection equipment. However, Containers owned or secured by Customers must be properly labeled to be eligible for collection. The Contractor shall provide Garbage, Recyclables, and/or Compostable Container labels to Customers for use on personal Containers upon request. The Contractor is not required to service Customer Containers that are not compatible with the Contractor’s equipment.

In the event that a Customer damages a Detachable Container or Drop-box Container due to negligence or intentional misuse, the Contractor may charge the Customer a City-approved Container repair or replacement fee and/or discontinue service to that Customer, provided the City provides previous written approval.

#### **4.1.14.3 Ownership**

At the end of the Contract Term or in the event the Contract is terminated for any reason, all Containers at Customer locations used by Contractor to provide Contract Services, shall, at the option of the City, revert to City ownership without further compensation to the Contractor. Temporary Containers, Compactor Drop-box Containers leased to Customers outside of this Contract, and all Containers held in reserve at the Contractor’s yard and not actively in service at a Customer location are excluded from this provision.

The City may elect to assign this potential ownership of said Containers to a third-party, and shall provide written notice to the Contractor. Any remaining warranties associated with the Containers described herein shall be transferred to the City or the City’s assignee.

The City in advance accepts all such Containers in their “as-is, where-is” condition and without any express or implied warranty by the Contractor of any kind, including but not limited to any warranty of fitness for any particular purpose or any warranty of merchantability. As between the City and the Contractor, the City assumes all risks of loss or liability on account of the City’s exercising of its rights under this Section 4.1.14.3 or any use made of any such Containers after they become the property of the City or assignee of the City.

#### **4.1.14.4 Container Colors and Labeling**

Contractor-provided Carts and Detachable Containers for Recyclables shall be blue, Compostables Carts shall be grey, and Carts and Detachable Containers for Garbage shall be green. Specific Container colors shall be approved in writing by the City prior to the Contractor's order of new Containers.

All distributed Containers shall be labeled with instructional information and contact information that include both a Customer Service phone number and website address. In-place Containers inherited from the City's previous contractor shall be washed and relabeled within sixty (60) Days of the start of collection services under this Contract. All labels shall be approved by the City prior to ordering by the Contractor. Location of the label on Containers shall be subject to the City's prior approval. Labels shall be replaced when faded, damaged, or upon the City or Customer request. Should any changes be made to the Garbage, Recycling, or Compostables collection program, the Contractor at their sole expense shall reproduce and reaffix labels on all Containers. The City may, at its option, provide labels to the Contractor to be affixed on the initial and replacement inventory of Carts and the Contractor shall place on the specified location on each Cart. The City shall reimburse the Contractor the Contractor's cost of applying the City's labels.

All Detachable Containers and Drop-box Containers to be used for Garbage or Recyclables collection shall have materials preparation instructions and phone/contact information, including both a Customer Service phone number and a website address, printed on a sticker, and subject to the prior written approval of the City. All Detachable Containers and Drop-box Containers to be used for Garbage or Recyclables shall have a sticker affixed that indicates no charge replacement or repair for leaky or broken Containers, and provides a phone number to call. Information shall be printed in a size that is easily read by the users, on durable UV-resistant label stock squarely affixed to each Container. All labels shall be approved in writing by the City prior to ordering by the Contractor. Location of the label on the Containers shall be subject to the City's prior written approval.

Containers used for the collection of Recyclables from Multifamily and Commercial Customers shall be relabeled by the Contractor if labels fade, are unreadable, contain incorrect information, or upon City's request for any individual Container.

#### **4.1.14.5 Container Weights**

The Contractor shall not be required to lift or remove materials from any Container exceeding the safe working capacity of the Container, lifting mechanism, or collection vehicle. For Drop-box Containers, the combined weight of the Drop-box and contents must not cause the collection vehicle to exceed legal road weight limits.

Any loose Extra Units or Recyclables that are not place in a Container and must be manually loaded shall be limited to fifty (50) pounds per bag or bundle unless otherwise authorized by the Contractor.

#### **4.1.14.6 Container Removal Upon City or Customer Request**

The Contractor shall remove all Containers automatically upon service cancellation within seven (7) Days of the cancellation or upon three (3) business days of specific Customer, property manager, property

owner, or the City's request. The contents of removed Containers shall be managed as if they were collected on a regular route (e.g. Recyclables shall be recycled, Compostables shall be delivered for composting). The disposal or recycling of materials accumulating in the Contractor's Container at the former Customer's location after the final Customer-paid collection shall be at the Contractor's, not Customer's cost. Failure to remove Containers within the specified timeline shall be subject to the same performance fees as delayed Container delivery for that Customer sector.

#### **4.1.15 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 on all collection vehicles shall be cleared frequently to prevent the occurrence of unnecessary blowing, leakage, or spillage.

Any leakage or spillage of materials upon the road surface or exposed appurtenances that occurs during collection shall be cleaned up or removed by the Contractor within four (4) hours of the Contractor's knowledge of the leakage or spillage at its sole expense. Any associated spillage or leakage entering the City's municipal storm system shall be cleaned promptly by Contractor staff, to the extent possible. The Contractor shall be responsible for all City's costs in the event that City staff or contractors are required for spill containment or cleaning due to the Contractor's action. The Contractor shall document the fluid leakage, including taking pictures before and after clean-up or removal, and shall provide this documentation to the City. Leakage or spillage not cleaned up or removed by the Contractor within the required time frame shall be cause for performance fees, as described in Section 6.1 and may be subject to fines and penalties pursuant to City municipal code. Should a leakage or spillage occur during collection, the Contractor shall notify the designated City contact. Contractor expressly acknowledges it is solely responsible for any federal, State, or local violations, which may result from said leakage or spillage.

Any leakage or spillage of materials that occurs during collection that is reported by Customers or the City shall be cleaned up or removed by the Contractor within four (4) hours at its sole expense. The Contractor shall document the reported leak or spillage, who reported the incident, and measures made to correct the incident and report this information via e-mail to the Contract administrator within three (3) hours. Failure of the Contractor to comply shall be cause for performance fees, as described in Section 6.1.

Any Contractor-supplied Container determined by the City to be leaking shall be replaced by the Contractor within one (1) business day of notification from the City. Failure of the Contractor to comply shall be cause for performance fees, as described in Section 6.1.

#### **4.1.16 Pilot Programs**

The City may wish to test and/or implement one or more new services or developments in waste stream segregation, materials processing, or collection technology at some point during the term of this 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 partial or City-wide basis, or as negotiated between the City and Contractor. The costs (or savings) accrued by City-initiated pilot programs shall be negotiated prior to implementation. If the City deems the pilot a success, and desires to incorporate the service or development represented in the pilot program in the terms of this Contract, the City and Contractor each agrees to negotiate in good faith and in accordance with Section

8.14 to include the provisions of the pilot program into this Contract, including any costs or savings to be accrued.

Contractor-initiated pilot programs shall require prior written notification to and written approval by the City. Contractor-initiated pilot programs shall be performed at no additional charge to the City or the Customers; however, costs (or savings) accrued may be subject to negotiations prior to implementation at the City's request. Results of any Contractor-initiated pilot program shall be reported to the City in the monthly reports described in Section 4.3.4.1. The Contractor shall not be required to test or implement any pilot program, new technology, service or development unless the terms and conditions thereof (including any savings or additional compensation to Contractor) have been mutually agreed in writing by the City and Contractor.

#### **4.1.17 Disruption Due to Construction**

The City reserves the right to construct any improvement or to permit any such construction in any Public Street 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 and the City shall develop a reasonable workaround to enable the Contractor to continue to collect Garbage, Recyclables, and Compostables to the nearest extent possible as though no interference existed upon the streets or alleys normally traversed. This shall be done at no extra expense to the City or Customers.

#### **4.1.18 Contractor Planning and Performance Under Labor Disruption**

No later than ninety (90) Days prior to the expiration of any labor agreement associated with services performed under this Contract, the Contractor shall provide the City in writing with its planned response to labor actions that could compromise the Contractor's performance under this Contract. The planned response will take the form of a Contractor-prepared Strike Contingency Plan and 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 seven (7) Days 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 Containers 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 seven (7) Days following the initiation of the disruption.

Except to the extent necessary to preserve the Contractor's attorney-client privilege and attorney work doctrine rights, the Contractor shall keep the City informed of the status of active labor negotiations affecting the Services hereunder on a timely 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 three (3) hours by phone and e-mail of the nature and scope of the disruption, as well as the Contractor's immediate plans to activate some or its entire Strike Contingency Plan. 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 un-served customers by material stream and service sector.

The Contractor shall provide make-up collection on Saturday for any Single-family Garbage and Recyclables collection Customers missed during the preceding week.

In the event that a disruption lasts more than one full Single-family Residential collection cycle, the Contractor with approval of the City shall provide Drop-box Containers or staffed packer trucks for Customer use for each affected material stream in approved locations throughout the affected route areas, as well as the collection of reasonable quantities of accumulated materials at no additional charge on the next regular collection cycle for each material.

If there is no make-up collection, the Contractor shall provide a credit for all service missed equal to the Customers' pro-rata regular rate minus the disposal component on the Customer's next regular invoice.

The City and Contractor agree that the following special compensation and performance fees reflect the best estimate of the impacts of the Labor Disruption to Customers and the City. The Contractor shall pay the City monthly by the tenth day of the following month:

1. A cost reimbursement amount of one thousand dollar (\$1,000) for each day of Labor Disruption to reimburse staffing and other costs for managing the impacts of the Labor Disruption;
2. A performance fee of two thousand five hundred dollars (\$2,500) a day for each day of Labor Disruption from the first (1<sup>st</sup>) day to the seventh (7<sup>th</sup>) day of the Labor Disruption;
3. A performance fee of five thousand dollars (\$5,000) a day for each day of Labor Disruption from the eight (8<sup>th</sup>) day to fourteenth (14<sup>th</sup>) day of the Labor Disruption; and
4. A performance fee of ten thousand dollars (\$10,000) a day for each day of Labor Disruption for every day beyond the fourteenth (14<sup>th</sup>) day of Labor Disruption.

The performance fees listed as 2 through 4, above, are intended to apply to any complete work stoppage where alternative but substantially equivalent service by non-striking employees is not provided by the Contractor or otherwise. In the event substantially equivalent service is provided by the Contractor through the employment of non-striking employees at any point during the course of the labor disruption, the Contractor is entitled to reduce the amount of the performance fees that otherwise would be due on a pro-rata basis, based on the percentage of Contract service provided to Customer provided on that day. 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 these specific performance fees.

The Contractor's failure to comply with the Contractor-prepared Strike Contingency Plan of this section shall be subject to a special fee of one thousand dollars (\$1,000) 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's invoice.

Fees paid by the Contractor under the terms of this Section 4.1.18 are not regular performance fees for the purposes of Section 6.1 and shall not be counted in the cumulative performance fee default threshold referenced in Section 6.2 (6).

Any Contractor-prepared Strike Contingency Plan or other information communicated by the Contractor to the City pursuant to this section shall be maintained in confidence by the City to the maximum permissible extent under applicable law.

#### **4.1.19 Site Planning and Building Design Review**

The Contractor shall, upon request and without additional charge, make available site planning assistance to either the City and Customers or potential Customers, and shall publicize the appropriate contact information for this function. The site planning assistance shall be available for all new construction or remodeling of buildings and structures within the 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 and other areas shall also be available for existing building managers when realigning Garbage, Recyclables, and Compostables services.

#### **4.1.20 Safeguarding Public and Private Facilities**

Contractor shall protect all public and private improvements, facilities, and utilities whether located on public or private property, including streets, signs/posts, light poles, planting strips, and trees. If such improvements, facilities, utilities, or streets are damaged as a result of Contractor's operations, Contractor shall notify the City in writing of all damage within four (4) hours, and Contractor shall repair or replace the same or pay the City for the costs of repairs, including overhead and administrative costs. If the damage creates an immediate public safety issue that requires an immediate response, Contractor shall, along with notifying the City in writing, call the City to inform them of such matter. If Contractor fails to do so promptly, as determined by the City, the City shall cause repairs or replacement to be made, and the cost, including overhead and administrative costs, of doing so shall be paid by the Contractor. The Contractor shall be liable for any damage to property or person caused by the negligent actions of Contractor, and the Contractor shall indemnify and hold the City harmless for any such damage or legal implications from said actions.

#### **4.1.21 Transition and Implementation of Contract**

The Contractor shall develop, with the City's input and prior written approval, and submit to the City no later than thirty (30) Days after the Date of Execution of this Contract, a Transition and Implementation Plan for introducing the new and revised services to the different Customer sectors (i.e., Single-family, Multifamily, and Commercial Customers), and detailing a specific timeline as to when different activities and events will occur, including details of Container delivery, how different events impact other events in the timeline and the process to be used to ensure that implementation occurs with no disruption. The Transition and Implementation Plan shall cover the entire period following the Date of Execution of this Contract, up through and including the six (6) month period following the Date of Commencement of Service. The Transition and Implementation Plan shall describe in detail what is involved with each of the activities and events listed in the timeline. The Transition and Implementation Plan shall also specifically address how the Contractor intends to proceed in the event of inclement weather and what contingency



plans will be in place to accelerate implementation if Container delivery or other planned activities are impacted by inclement weather.

The Contractor shall be responsible for funding all the design, development, printing, sorting, mail prep, delivery, and mailing costs, including the cost of the postage-prepaid mail-back cards and any costs associated with the website ordering services, and of all new and continuing service and educational materials described above and needed to comply with the Transition and Implementation Plan outreach described in this section of the Contract.

Any additional promotional, educational, informational, and outreach materials provided by the Contractor to Customers in connection with the initial transition and implementation of the Contract shall be designed, developed, printed, and delivered by the Contractor unless otherwise directed by the City, at the Contractor's cost, and subject to the City's prior review and written approval and the City's final approval as to method of delivery. Customer materials must contain important dates/timelines, answers to frequently asked questions, information about translations available, and a phone number and website for Customers needing additional information. Materials must contain clear and accurate wording, easy-to-read font, professional visual graphics, be free of inaccurate or misleading information, be free of typographical errors, and must be printed on minimum 30% post-consumer recycled paper. The City will be provided a minimum of two (2) weeks to review any of the materials included in the Contractor's Transition and Implementation Plan schedule to allow sufficient time for the City prior review and written approval.

#### **4.1.22 Performance Review**

The City may, at its option, and upon reasonable notice to the Contractor, conduct a review of the Contractor's performance under this Contract. If conducted, the performance review shall include, but is not limited to, a review of the Contractor's performance relative to requirements and standards established in this Contract, including Customer Service standards. The Contractor agrees to fully cooperate with the performance review and work with City staff and consultants to ensure a timely and complete review process.

The results of the performance review shall be presented to the Contractor within thirty (30) Days of completion. Should the City determine that the Contractor fails to meet the Contract performance requirements and standards, the City shall give the Contractor written notice of all deficiencies. The Contractor shall have sixty (60) Days from its receipt of notice to correct deficiencies to the City's satisfaction. If the Contractor fails to correct deficiencies within sixty (60) Days, the City may allow the Contractor additional time to comply, accept other remedies for the service failure or proceed with the contract default process pursuant to Section 6.2 of this Contract, at the City's sole option.

The costs of the development and implementation of any action plan required under this Section 4.1.22 or Section 6.1 for the purpose of addressing failures on the part of the Contractor to perform in accordance with the terms and conditions of this Contract shall be paid for solely by the Contractor, and the costs of developing or implementing such action plan may not be passed on to Customers or the City, or included in rates or fees charged Customers.

The City may, at its option, and upon reasonable notice to the Contractor, design and implement an alternative annual Contract compliance monitoring program with or without Contractor performance

incentives. If such a program is desired by the City, the City and Contractor agree to negotiate in good faith the monitoring methodologies used to ensure accurate and unbiased sampling of performance data. The City shall bear the costs of City staff, City-retained consultants and performance incentives (if used) and the Contractor shall bear the costs of Contractor staff and route costs to perform the monitoring.

#### **4.1.23 Continual Monitoring and Evaluation of Operations**

The Contractor's supervisory and management staff shall be available to meet with the City in person or via phone/video conference, at the City's option, on a weekly basis during the period three (3) months before and two (2) months after the Date of Commencement of Service and monthly throughout the term of the Contract to discuss operational and Contract issues.

The Contractor shall continually monitor and evaluate all operations to ensure that compliance with the provisions of this Contract is maintained.

The City may periodically monitor collection system parameters such as participation, Container condition, contents weights, and waste composition. The Contractor shall assist and fully cooperate with the City by coordinating the Contractor's operations with the City's periodic monitoring to minimize inconvenience to Customers, the City, and the Contractor. The Contractor also shall provide full access to equipment, processing facilities, route and Customer Service data, safety records, and other applicable information. The City's review of Contractor activities and records shall occur during normal Office Hours and shall be supervised by the Contractor's staff.

#### **4.1.24 Collection/Disposal Restrictions**

Unless otherwise directed by the City, all Garbage collected under this Contract, as well as residues from processing Recyclables and Compostables (to the extent required for the City to comply with its Solid Waste Interlocal Agreement with the County), shall be delivered to the King County Disposal System in compliance with all King County rules regarding such disposal.

Garbage containing obvious amounts of Yard Debris shall not knowingly be collected from Customers and instead prominently tagged with a written notice informing the Customer that the County does not accept Yard Debris mixed with Garbage for collection. Contractor's awareness, knowing, or intentional collection of Garbage mixed with visible Yard Debris shall be grounds for performance fees as provided in Section 6.1. Contractor shall be liable and legally responsible for the Contractor's awareness, knowing, or intentional collection of Garbage mixed with visible Yard Debris. The Contractor shall indemnify and hold the City harmless for any damage or liability resulting from said collection.

The Contractor shall not knowingly collect or dispose of Unacceptable Waste or other 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 in a prominent location with the rejected materials listing why they were not collected and providing the Customer with a contact for further information about proper disposal options for such materials.

Title to and liability for any Unacceptable Wastes that are included with any materials collected under this Contract by Contractor despite the City's and Contractor's attempts to prevent the inclusion of such

materials shall not pass to Contractor, but shall remain with the party from whom such Unacceptable Waste or any such other materials or substances is received.

Garbage collected by the Contractor may be processed by the Contractor to recover recyclable material; provided, however, that the residual is appropriately disposed of within the King County Disposal System. The processing of such Recyclable material shall only be undertaken with the prior written approval of the County and the City and in accordance with the Solid Waste Interlocal Agreement between the County and the City. Contractor in all such instances shall charge Customers no more than the equivalent Garbage disposal fee within the King County Disposal System or such other disposal fee as the City reasonably directs the Contractor to charge. In addition, hauling fees charged by the Contractor in such instances shall be no higher than those provided for in Exhibit B.

#### **4.1.25 Emergency Response**

Contractor shall assist the City in the event of a disaster or emergency declaration. Contractor services shall be provided as soon as practical upon City direction and paid at the Contract rates in Exhibit B.

Contractor shall keep full and complete records and documentation of all costs incurred in connection with disaster or emergency response, and include such information in the monthly and annual reports required under Section 4.3.4. Contractor shall maintain such records and documentation in accordance with the City's prior written approval and any standards established by the Federal Emergency Management Agency (FEMA), and at the City's request, shall assist the City in developing any reports or applications necessary to seek federal assistance during or after a federally-declared disaster.

#### **4.1.26 Vacation Service Stops**

Single-Family Residential Customers shall have the option of stopping collection services if their Residence will be vacant for more than four (4) consecutive weeks. The Customer shall not be charged for services during the vacation stop period. The Contractor may charge a standby fee as provided for in Exhibit B for vacation service stop exceeding ninety (90) Days.

#### **4.1.27 Hiring Preference**

For initial hiring under this Contract, the Contractor and subcontractors shall give hiring preference to any Garbage, Recyclables, or Compostables (including Yard Debris) collection workers who serviced City routes for the previous hauler at the time that the previous collection contract expired and have been displaced as a result of the City awarding this Contract, provided that such workers are fully qualified and meet the Contractor's standards for employment. Nothing in this section is intended to create any third party rights under this Contract.

Upon the hiring of a displaced collection worker represented by Teamsters Local 117 or 174, the Contractor 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 Contractor'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 payment 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 collective bargaining agreement.

## **4.2 Collection Services**

### **4.2.1 Single-Family Residence Garbage Collection**

#### **4.2.1.1 Subject Materials**

The Contractor shall collect all Garbage placed at Curbside for disposal by Single-Family Residence Customers in, and properly prepared and contained materials adjacent to, Garbage Carts, Cans, and bags.

#### **4.2.1.2 Containers**

The Contractor shall provide collection Containers to Customers at no additional charge as part of the Customer-chosen service level. Garbage Containers shall be delivered by the Contractor to Single-Family Residence Customers within seven (7) Days of the Customer's initial request. Each Customer's initial Container must be a Contractor-provided Container, provided that Garbage in excess of the Customer's initial Container may be bundled or placed in a Customer-owned Can or plastic bag.

#### **4.2.1.3 Specific Collection Requirements**

The Contractor shall offer regular weekly collection of the following service levels:

1. Ten (10) gallon Micro-can;
2. Twenty (20) gallon Garbage Cart;
3. Thirty-two (32) or thirty-five (35) gallon Garbage Cart;
4. Forty-five (45) gallon Garbage Cart;
5. Sixty-four (64) gallon Garbage Cart; and
6. Ninety-six (96) gallon Garbage Cart.

The Contractor shall also offer a service of once per month collection of non-putrescible waste in a thirty-two (32) or thirty-five (35) gallon Cart.

Carry-out surcharge fees 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, unless otherwise provided for in this Contract. The Carry-out surcharge fee listed in Exhibit B shall be charged once for all three collection streams.

Garbage in excess of Container capacity or the subscribed service level shall be collected and properly charged as Extra Units to the Customer; with the exception of excess Garbage collection otherwise authorized under this Contract at no additional charge to the Customer. Extra charges may be assessed for materials loaded so as to lift the Container lid in excess of six inches (6") from the normally closed position. Overweight Containers shall be left at the Curb and tagged with written 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 Units. Customers shall be allowed to specify that no Extra Units be collected without prior Customer notification, which shall be provided by the Single-Family Residence Customer no less than one (1) business day prior to that Customer's regular collection. If a Customer specifies no Extra Units, than such materials shall be left at the Curb uncollected and tagged with written notification as to why it was not collected.

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.

The Contractor shall offer Single-Family Residential Customers an On-Call clean-up program that allows each Single-Family Customer to place up to two (2) cubic yards of Garbage once each year at the Curb for collection on the Customer's regular collection day, provided that any individual item is no larger than three feet (3') by three feet (3'), plus four (4) non-appliance bulky items such as couches or large chairs. The Contractor shall track usage to ensure that no Customer uses more than their allowed one collection per calendar year, unless they pay for regular Extra Units or Bulky Waste collection service.

#### **4.2.2 Single-Family Residence Recyclables Collection**

##### **4.2.2.1 Recyclable Materials**

Residential Recyclables shall be collected from all participating Single-Family Residences Customers as part of Garbage collection services, at no additional charge. If operational or recycling processing improvements are made that allow additional materials to be recycled at no additional cost to the Contractor, the Contractor agrees to expand the defined list of Residential Recyclables to cover such materials, subject to prior written approval by the City. The Contractor shall collect Curbside prepared Recyclables as described in Exhibit C. With the exception of Corrugated Cardboard, the maximum dimensions for Recycling materials shall be two feet (2') by two feet (2').

The City reserves the right to engage in product stewardship and/or waste prevention activities that may result in one or more materials being removed from the Exhibit C list.

##### **4.2.2.2 Containers**

The Contractor shall provide collection Recycling Containers to Customers at no charge. The default Recycling Cart size shall be ninety-six (96) gallons, provided that the Contractor shall offer and provide thirty-two (32)/thirty-five (35) or sixty-four (64) gallon Recycling Carts on request to those Single-Family Residence Customers requiring less capacity than provided by the standard ninety-six (96) gallon Recycling Cart. A Customer may request and receive from the Contractor one additional Recycling Cart at no additional charge. Additional Carts above the two provided at no cost shall be charged at the extra Recycling Cart rate provided in Exhibit B.

Recycling Carts shall be delivered by the Contractor to new Single-Family Residence Customers, those Customers requesting replacements or additional Carts, or Customers that had previously rejected their Recycling Cart, within seven (7) Days of the Customer's initial request.

#### **4.2.2.3 Specific Collection Requirements**

Single-Family Residence Recyclables collection shall occur every-other-week on the same day as each household's Garbage and Compostables collection. 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.

The Contractor shall collect all Residential Recyclables from Single-Family Residences that are placed in Carts, paper bags, boxes, or labeled Cans next to the Customers' Recycling Cart. Customers choosing to use their own Containers for excess Recycling shall be provided, upon Customer request, durable labels by the Contractor that clearly identify the Container's contents as Recycling. Recyclables must be prepared as described in Exhibit C and uncontaminated with food or other residues. No limits shall be placed on set-out volumes for Curbside Recyclables, other than those specifically listed in Exhibit C.

#### **4.2.3 Single-Family Residence Compostables Collection**

##### **4.2.3.1 Subject Materials**

The Contractor shall provide subscription-based (user fee-based) Compostables collection services to requesting Single-Family Customers.

##### **4.2.3.2 Containers**

A Compostables Cart shall be provided to all Single-Family Customers who subscribe for Compostable service. Compostable service Customers shall be provided a kitchen Food Scraps composting starter kit upon request, including a kitchen container, one roll of compostable bag liners, and instructional materials. The contents of the starter kit shall be approved by the City prior to distribution. Customers shall be limited to one starter kit per Customer.

The default Compostables Cart size shall be ninety-six (96) gallons, with thirty-two (32) or thirty-five (35) gallon and sixty-four (64) gallon sizes available upon request. The first Compostables Carts shall be provided as part of the Compostables service. Additional 96-gallon Compostables Cart service shall be provided by the Contractor, at the rate provided in Exhibit B. The additional Cart service includes the provision of the Cart, collection and composting costs. Customers may also rent an additional 96-gallon Cart without service (rental only) at the rate provided in Exhibit B.

Compostables Carts shall be delivered by the Contractor to Customers within seven (7) Days of the Customer's initial request. The Contractor shall offer an annual cleaning of Compostables Carts at no additional charge, upon Customer or City request. Additional cleaning shall be available to Customers upon request at the charges listed in Exhibit B.

##### **4.2.3.3 Specific Collection Requirements**

Properly prepared Compostables shall be collected every-other-week on the same day as Residential Garbage and Recyclables collection. Collections shall be made from Single-Family Residence Customers on a regular schedule on the same day and as close to a consistent time as possible. Compostables in excess of ninety-six (96) gallons may be charged at the additional Cart rate (if that Customer has ordered one or more additional Compostables Carts) or as Compostables Extra Units in accordance with Exhibit B.

Extra Yard Debris material that does not fit in the initial Compostables Cart shall be bundled or placed in Kraft bags or Customer-owned Cans labeled for Yard Debris. Customers choosing to use their own Containers for excess Yard Debris shall be provided, upon Customer request, durable labels by the Contractor that clearly identify the Container's contents as Yard Debris. Food Scraps shall be contained in the initial Compostables Cart and only Yard Debris shall be placed in bags, bundles, or Cans.

Upon direction from the City, for two (2) collection cycles immediately following a City-designated storm event, up to ninety-six (96) additional gallons of containerized, bundled, or bagged Compostable storm debris shall be accepted with regular quantities of Compostables without additional charge, provided that the materials are prepared and set-out as described for excess Yard Debris in the prior section. This service shall be available only to Compostables service subscribers and shall be limited to no more than three (3) events per year.

The Contractor shall collect on Public Streets and Private Roads in the same location as Garbage collection is provided.

#### **4.2.4 Multifamily and Commercial Customer Garbage Collection**

##### **4.2.4.1 Subject Materials**

The Contractor shall collect all Garbage set out for disposal by Multifamily and Commercial Customers in Garbage Containers, and adjacent to, if properly prepared.

##### **4.2.4.2 Containers**

Multifamily and Commercial Customers shall be offered a full range of Container and service options, including Garbage Carts, one (1) through eight (8) cubic yard non-compacted Detachable Containers, and one (1) through six (6) cubic yard compacted Detachable Containers. Containers shall be provided to Customers at no charge, except for compacting Containers or unless otherwise set forth in this Contract and directed by the City. Customer-owned or Customer-leased Detachable Container compactors shall be collected by the Contractor unless the Container is incompatible with the Contractor's equipment. The Contractor shall provide locks for Containers at no additional charge upon [Customer](#) originated request.

Materials in excess of Container capacity or the subscribed service level shall be collected and properly charged as Extra Units as directed by the City. Extra charges may be assessed for materials loaded so as to lift the Container lid in excess of six inches (6") from the normally closed position. The Contractor shall develop and maintain route lists in sufficient detail to allow accurate recording and charging of all Extra Units.

The Contractor may use either or both front-load or rear-load Detachable Containers to service Multifamily and Commercial Customers. However, not all collection sites within the 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.

Containers shall be delivered by the Contractor to requesting Multifamily and Commercial Customers within three (3) business days of the Customer's initial request.

#### **4.2.4.3 Specific Collection Requirements**

Collections from both Multifamily and Commercial Customers shall be made on a regular schedule on the same day and as close to a consistent time as possible. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers after emptying to the same location as found, with their lids closed.

The Contractor shall not charge fees for either opening gates or unlocking Containers. The Contractor shall remove and replace Containers from enclosures and position (roll-out) Containers up to twenty-five feet (25') for Garbage collection at no additional charge. Additional roll-out charges may be assessed in twenty-five foot (25') increments only to those Multifamily and Commercial Customers for whom the Contractor must move a Container over twenty-five feet (25') to reach the collection vehicle at its nearest point of access. Customers with hard-to-access Containers requiring the Contractor to wait for Customer Container relocation or requiring Contractor's use of specialized equipment for Container relocation may charge those Customers additional access fees and/or hourly fees consistent with Exhibit B.

Multifamily and Commercial Customers may request extra collections and shall pay a proportional amount of their regular monthly rate for that service as established by the City.

#### **4.2.5 Multifamily and Commercial Customer Recyclables Collection**

##### **4.2.5.1 Subject Materials**

All properly prepared Recyclables listed in Exhibit C for Multifamily and Commercial Customers (including those Multifamily and Commercial Customers utilizing permanent Drop-box Collection services), shall be collected as part of the Garbage collection services without extra charge, subject to the capacity limitations provided for in Section 4.2.5.3. The Contractor may decline to collect Recyclables if the Container in which they are placed by the Customer contains Excluded Materials or other materials that do not conform to the definition of Recyclables or that do not meet specifications.

##### **4.2.5.2 Containers**

The Contractor shall provide Recycling Containers at no additional charge to all Multifamily and Commercial Customers requesting Containers.

The Contractor shall encourage and promote participation in Recyclables and Compostables services and shall recommend appropriate relative Container sizes through its site visit and evaluation process. The Contractor shall encourage the use of Detachable Containers instead of multiple Carts at Multifamily sites where more than one (1) cubic yard of Recycling capacity is provided, unless constraints favor the use of Carts. The Contractor shall provide locks for Containers at no additional charge upon [Customer originated](#) request. Containers used for the collection of Recyclables shall be delivered by the Contractor to requesting Customers within three (3) business days of the Customer's initial request.

##### **4.2.5.3 Specific Collection Requirements**



Multifamily and Commercial Recyclables collection shall occur at least weekly or more frequently if space constraints preclude providing sufficient weekly capacity. Collections shall be made on a regular schedule on the same day(s) of the week and as close to a consistent time as possible. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers after emptying to the same location as found, with their lids closed.

When providing weekly Commercial Recyclables collection to a particular Customer, the Contractor shall not be required to provide Recycling Container capacity greater than one hundred fifty percent (150%) of that Customer's weekly Garbage collection volume. For example, a Customer with a weekly four (4) cubic yard Garbage Container would be provided up to six (6) cubic yards of weekly Recyclables Container capacity. Any additional recycling may be fee-based as negotiated between the Customer and Contractor. A 3-to-1 ratio shall be used for calculating volumes for compaction-based Garbage service. For example, a six (6) cubic yard compacted Garbage Container would be considered eighteen (18) cubic yards of uncompacted Garbage volume.

The Contractor shall not charge fees for either opening gates or unlocking Containers. The Contractor shall remove and replace Containers from enclosures and position (roll-out) Containers up to twenty-five feet (25') for Recycling collection at no additional charge. Additional roll-out charges may be assessed in twenty-five foot (25') increments only to those Multifamily and Commercial Customers for whom the Contractor must move a Container over twenty-five feet (25') to reach the collection vehicle at its nearest point of access. Customers with hard-to-access Containers requiring the Contractor to wait for Customer Container relocation or requiring Contractor's use of specialized equipment for Container relocation may charge those Customers additional access fees and/or hourly fees consistent with Exhibit B.

#### **4.2.6 Multifamily and Commercial Customer Compostables Collection**

The Contractor shall provide subscription-based (user fee-based) Compostables collection services to requesting Multifamily and Commercial Customers.

##### **4.2.6.1 Subject Materials**

The Contractor shall provide collection of Compostables from any requesting Multifamily or Commercial Customer, subject to that Customer's continued compliance with material preparation requirements. Containers including contaminated or oversized Compostables materials rejected by the Contractor shall be tagged in writing in a prominent location with an appropriate problem notice explaining why the material was rejected.

##### **4.2.6.2 Containers**

Carts shall be provided to subscribers as part of the service at no additional charge. The Contractor shall offer regular thirty-two (32) or thirty-five (35) gallon, sixty-four (64) gallon, and ninety-six (96) gallon Compostable Carts at the rates set forth in Exhibit B.

To encourage Compostable diversion, upon request, the Contractor shall provide one (1) Compostable Cart to be serviced weekly for up to one (1) year to any Multifamily or Commercial Customer who previously did not subscribe to Compostables service. In order to participate, Customers must have

demonstrated proper Recyclable materials preparation and accept technical assistance for Compostables. Carts may be removed if the Customer repeatedly contaminates the Compostables Cart. This no-charge program is limited to one hundred (100) Customers per calendar year. Additional service frequency, additional Carts, or time period after one (1) year shall be charged at the rates set forth in Exhibit B.

The Contractor shall offer an annual cleaning of Compostables Carts at no additional charge, upon Customer or City request. Additional cleaning shall be available to Customers upon request at the charges listed in Exhibit B. Compostables Carts shall be delivered by the Contractor to Multifamily and Commercial Customers within three (3) business days of a Customer's initial request.

#### **4.2.6.3 Specific Collection Requirements**

Multifamily and Commercial Customer Compostables collection shall occur weekly or twice-weekly, as subscribed for and requested by the Customer. Collections shall be made on a regular schedule on the same day(s) of the week and as close to a consistent time as possible. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers after emptying to the same location as found, with their lids closed.

#### **4.2.7 Permanent Drop-box Container Garbage Collection**

##### **4.2.7.1 Subject Materials**

The Contractor shall provide permanent Drop-box Container Garbage collection services to Customers, in accordance with the service level selected by the Customer. For the purposes of this Section, a permanent Drop-box Container Customer is a Customer who retains service for more than ninety (90) Days and has their Container hauled at least once per calendar month.

Permanent Drop-box Container Customers who have at least one (1) haul of their Container each month are eligible for Recycling services per Section 4.2.5. If a permanent Drop-box Container Customer with regular Recycling service falls below the minimum one (1) Garbage haul per month threshold, the Contractor shall notify the Customer of the minimum requirement for Recycling eligibility and that the Contractor will charge for future Recycling collection at market rates if the minimum Garbage haul threshold is not met in successive months.

##### **4.2.7.2 Containers**

The Contractor shall pay the cost of procuring and providing Containers for Garbage meeting the standards described in Section 4.1.14. Customer-owned or Customer-leased Drop-box Container compactors shall be collected by the Contractor unless the Container is incompatible with the Contractor's equipment.

The Contractor shall maintain a sufficient Drop-box Container inventory to provide delivery of empty Containers by the Contractor to new and temporary Customers within three (3) business days after the Customer's initial request.

##### **4.2.7.3 Specific Collection Requirements**

The Contractor shall provide dispatch service and equipment capable of collecting full Drop-box Containers on the same business day if the Customer's initial request is received by the call center before or at 10:00 a.m. PST, and no later than the next business day if the Customer's initial call is received by the call center after 10:00 a.m. PST. At the Customer's request, the Contractor shall deliver an empty Drop-box Container to the Customer at the time of collecting the full Drop-box Container. Drop-box Containers shall be delivered to new Customers within one (1) business day of their initial request.

The Contractor shall detach, remove and replace Drop-box Containers from locked or unlocked enclosures at no additional charge. The Contractor may charge additional time and/or mileage only if (1) the Customer requests that Contractor deliver material to a facility other than the closest King County disposal facility, (2) the facility is one to which the Contractor is allowed to deliver the material under this Contract, and (3) Contractor delivers the material to such facility after advising the Customer in writing (e-mail is acceptable) as to the basis of the additional time and/or mileage charges to be payable by the Customer on account of such delivery(ies).

#### **4.2.8 Temporary (Non-Event) Container Customers**

The Contractor shall maintain a sufficient Container inventory, including Detachable Container and Drop-box Containers, to provide delivery of empty Containers by the Contractor to temporary Customers within three (3) business days after the Customer's initial request. The charges for temporary Detachable Container service as listed in Exhibit B shall include delivery, collection, distance, and disposal. No additional fees other than those included in Exhibit B may be charged. Temporary Garbage services do not include Recycling or Compostables collection and shall not exceed ninety (90) Days in duration, unless the Customer has their Container hauled less than once per calendar month, in which case they will continue to be considered a temporary customer. Customers requiring more than monthly collection service for over ninety (90) Days shall subscribe for regular combined Garbage and Recycling, service.

#### **4.2.9 Special Event Services**

Contractor shall provide temporary Garbage, Recyclables, and Compostables Carts to Customers sponsoring special events within the Service Area at the rates listed in Exhibit B. Contractor shall provide such Customers with assistance in determining Container needs and signage for Garbage, Recyclables, and Compostables at the special events, including site visits and technical assistance to ensure that the maximum Recyclables and Compostables diversion is achieved. Contractor shall coordinate their efforts with the City, and provide such Customers and the City with a summary of the volumes of materials disposed of and diverted for recycling and composting.

Contractor shall provide special event services as a bundle, with each event providing collection of Recyclables and Compostables at no additional charge as part of the event Garbage collection service. The provision of Garbage-only service shall only be provided on a case-by-case basis upon prior written approval of the City.

#### 4.2.10 Municipal Services

The Contractor shall provide the services in this Section 4.2.10 at no additional charge to Customers or the City.

In the event that the value of municipal services provided by the Contractor year-on-year increases more than the change in overall Contract revenues year-on-year, the City will either pay for the additional value of services, limit the provision of services to additional facilities, or adjust Contractor's rates to reflect the excess cost to Contractor in providing such services.

If the City is restricted from accepting these services at no charge, the Contractor shall be separately and specifically paid for these services at Contract rates and the Contractor shall reduce the Contract rates by the estimated costs of providing these services to the City at no charge.

##### 4.2.10.1 Street Litter and Recycling

The Contractor shall provide weekly or more frequent as needed Garbage and Recycling collection for street litter or recycling receptacles (including the provision of plastic bags to line the receptacles) within the City.

##### 4.2.10.2 City Facilities

The Contractor shall provide weekly Garbage, Recyclables and (as appropriate) Compostables collection to all City-owned municipal facilities and parks as a part of this Contract and at no additional charge. As of the date herein, these facilities consist of the following:

Facility	Address(s)
Bicentennial Park	6000 Christensen Rd
City of Tukwila	6300 Southcenter Blvd
Crestview Park	16200 42nd Ave S
Crystal Park	15832 51st Ave S
Evidence & Records Storage	12026 42nd Ave S
Fire Station 51	17951 Southcenter Pkwy
Fire Station 52	15447 65th Ave S
Fire Station 53	4202 S 115th St
Fire Station 54	4237 S 144th St
Fort Dent Park	6800 Fort Dent Way
Foster Golf Course	13500 Interurban Ave S
Foster Park	13919 53rd Ave S
George Long Building	14000 Interurban Ave S
Justice Center	14835 & 15005 Tukwila International Blvd
Minkler Office	600 Minkler Blvd
Old Fire Station 52	5900 S 147th St
Parks & Golf Maintenance Facility	13900 Interurban Ave S
Police Evidence	444 Andover Park East

<b>Facility</b>	<b>Address(s)</b>
Public Works Maintenance Shop	11210 & 11234 Tukwila International Blvd
Starfire Sports Complex	14800 Starfire Way
Tukwila City Hall	6200 Southcenter Blvd
Tukwila Community Center	12424 42nd Ave S
Tukwila Heritage & Cultural Center	14475 59th S
Tukwila Park	15460 65th Ave S
Tukwila Pond	299 Strander Blvd
Tukwila Pool	4414 S 144th St
Way Back Inn	15421 42nd Ave S 14688 McCadam Rd S 14239 42nd Ave

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, as well as municipal facilities in future annexation areas covered by this Contract.

In cases in which Garbage, Recyclables, or Compostables are generated through the performance by third parties of services for the City outside of the normal operation of a municipal facility, Contractor may charge for the collection of such materials in accordance with charges listed in Exhibit B. For example, the City could be required by Contractor to pay for the disposal of debris generated by the replacement of the roof of a City facility. Regular Garbage, Recyclables, and Compostables generated on an ongoing basis at all City facilities in the ordinary course of their operations, however, whether generated by staff or third parties (e.g. janitorial contractor) will be collected by the Contractor without charge to the City. Tenants and other occupants of a municipal facility, other than those who operate the facility as a City contractor of municipal services may be charged by Contractor in accordance with this Contract for the collection from them of associated Garbage, Recyclables, and Compostables.

The Contractor shall provide Garbage, Recycling, and Compostables collection services to the City for up to ten (10) clean-up events each calendar year. At each event, the Contractor shall provide a forty (40) yard Drop-box Container (or other size approved by the City) without charge to the City. Contractor shall waive delivery, rental, disposal and other fees for the first ten (10) events each year. All Source-separated materials shall be properly recycled or composted by the Contractor.

#### **4.2.11 Community Events**

The Contractor shall support up to two (2) special drop-off collection events scheduled each year for City residents (proof of residency required) located within the Service Area. At each event, the Contractor shall provide Drop-box Containers and/or Detachable Containers for Garbage. The Contractor shall provide all equipment, transportation, and disposal fees at no additional charge to the City.

The Contractor shall provide Garbage, Recycling, and Compostables services for City-sponsored special events at no additional 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:

- 4<sup>th</sup> of July Celebration
- Tukwila Backyard Festival
- Tukwila Days Festival (2 separate events)

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.

**4.2.12 On-call Bulky Waste Collection**

The Contractor shall provide on-call Bulky Waste collection to any Customer, including Multifamily and Commercial Customers.

On-call collection of Bulky Waste shall be provided by the Contractor to Customers by appointment for no more than the charge set forth in Exhibit B to this Contract, with collection occurring no later than five (5) business days after a Customer initial request.

Customers must place Bulky Waste at the regular Garbage collection location no more than twenty-four (24) hours prior to collection. The Contractor shall notify the Customer of the specific date that their item will be collected and the charge that will be made to their next bill.

The Contractor shall recycle all metal appliances, unless another arrangement is approved in writing by the City, and to make a reasonable effort to recycle all other materials collected.

The Contractor shall maintain a separate log listing service date, materials collected, Customer charges, weights, and whether the item was recycled or disposed. This log shall be provided to the City on a monthly basis in accordance with Section 4.3.4. On-call Bulky Waste collection must occur during the hours and days specified in Section 4.1.3, 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, non-disruptive and quiet manner.

**4.2.13 Excluded Services**

This Contract does not include the collection or disposal of Unacceptable Waste.

**4.3 Collection Support and Management**

**4.3.1 General Customer Service**

The Contractor shall be responsible for providing all Customer Service functions, including, but not limited to:

1. Answering Customer phone calls and e-mail requests;
2. Requesting at start of service Customer’s preference for notification of service changes via out-dialer calls, texts, or e-mails;
3. Informing Customers of current, new, and optional services and charges;
4. Handling Customer subscriptions and cancellations;
5. Receiving and resolving Customer complaints;

6. Dispatching Drop-box Containers, temporary Containers, and special collections;
7. Billing;
8. Maintaining and updating regularly as necessary a user- and mobile-friendly internet website; and

These functions shall be provided at the Contractor's sole cost, with such costs included in Contractor charges set forth in Exhibit B.

#### **4.3.2 Specific Customer Service Requirements**

The Contractor shall maintain a service base for storing and/or maintaining collection vehicles within thirty (30) miles of the Service Area. Operations and management staff shall be located at that site. Call center operations may be remotely provided, but shall be based within the United States of America. The Contractor's call center shall be open and available with Customer Service representatives during Call Center Hours. Customer calls shall be taken during Call Center Hours by a person, not by voicemail. Outside of Call Center Hours, the Contractor shall have an answering or voicemail service available to record messages from all incoming phone calls.

The Contractor shall maintain a twenty-four (24) hour emergency phone number for use by the City. The Contractor shall have a representative, or an answering service to contact such representative, available at such emergency phone number for City use during all hours, including normal Office Hours. Inability to reach the Contractor's staff via the emergency phone numbers shall be cause for performance fees in accordance with Section 6.1.2.

##### **4.3.2.1 Customer Service Representative Staffing**

During Call Center Hours, the Contractor shall maintain sufficient call center staff to answer and handle complaints and service requests from all Customers without delay. If incoming phone calls necessitate, the Contractor shall increase staffing levels as necessary to meet Customer Service demands. The Contractor shall provide and publicize a phone number capable of handling service related text messages.

The Contractor shall maintain sufficient staffing to answer and handle complaints and service requests in a timely manner made by methods other than phone, including letters, e-mails, text messages, social media messages, or webpage messages. If staffing is deemed to be insufficient by the City to handle Customer complaints and service requests in a timely manner, the Contractor shall increase staffing levels to meet performance criteria.

The Contractor shall provide additional staffing during the transition and implementation period, and especially from six (6) weeks prior to the Date of Commencement of Service, through the end of the fourth (4<sup>th</sup>) month after the Date of Commencement of Service, 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 transition and implementation period shall be subject to the City's prior review and approval.

##### **4.3.2.2 City Customer Service**

The Contractor shall maintain local staff that has management level authority to provide a point of contact during Office Hours for the majority of inquiries, requests, and coordination covering the full range of Contractor activities related to this Contract. Duties include, but are not limited to:

1. Assisting staff with promotion and outreach to Single-Family Residences, Multifamily, Commercial Customers, and special events;
2. Serving as an ombudsperson, providing quick resolution of Customer issues, complaints, and inquiries; and
3. Assisting the City with program development and design, research, response to inquiries, and troubleshooting issues.

A Contractor-designated service expert shall be accessible by staff to address emerging problems as needed, and shall return messages (phone, mobile messaging, or e-mail) within four (4) hours of the City's leaving or sending a message during Office Hours and by noon on the next business day if after Office Hours.

Should the Contractor fail to meet the City expectations for Customer Service as described herein, the Contractor shall be assessed performance fees in accordance with Section 6.1.

#### **4.3.2.3 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 phone calls received through the Contractor's non-Call Center Hours voicemail or answering service shall be recorded in the log no later than by the following business day. The Contractor shall make a conscientious effort to respond directly to the Customer and resolve all complaints within one (1) business day of the original phone call, letter, or electronic communication, 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 from the Microsoft Office suite (or other City-approved format) of software to the City with the monthly report.

#### **4.3.2.4 Handling of Customer Calls**

All incoming phone calls shall be answered promptly and courteously, with an average speed of answer of less than thirty (30) seconds. No phone calls shall be placed on hold for more than two (2) minutes per occurrence, and on a monthly basis, no more than 10% of incoming phone calls shall be placed on hold for more than twenty (20) seconds. A Customer calling into the Customer Service phone lines and placed on hold shall hear messages that are applicable to services provided under this Contract and not misleading to Customers.

A Customer shall be able to talk directly with a Customer Service representative when calling the Contractor's Customer Service phone number during Office Hours without navigating an automated



phone answering system that takes longer than sixty (60) seconds to navigate. An automated voicemail service or phone answering system may be used when the office is closed. Customer Service representatives shall provide accurate and applicable information, and shall not provide confusing, inaccurate, or misleading information.

#### **4.3.2.5 Corrective Measures**

Upon the receipt of Customer complaints in regard to busy signals or excessive delays in answering the phone, the City may request the Contractor submit a plan to the City for correcting the problem. Once the City has approved the plan, the Contractor shall have sixty (60) Days to implement the corrective measures, except during the transition and implementation period from thirty (30) Days prior to the Date of Commencement of Service, through the end of the fourth month after the Date of Commencement of Service, during which the Contractor shall have seven (7) Days to implement corrective measures. Reasonable corrective measures shall be implemented without additional compensation to the Contractor. Failure to provide corrective measures shall result in possible performance fees pursuant to Section 6.1 assessed against the Contractor.

#### **4.3.2.6 Contractor Website**

The Contractor shall maintain a mobile-friendly website containing information specific to the City's collection programs, including the following information at a minimum:

1. Contact information, noting available hours for each contact method;
2. Collection schedules;
3. Current day of collection map;
4. Material preparation requirements;
5. Available services and options;
6. Rates and fees for all sectors and services;
7. Holiday scheduled and resulting delays in collections;
8. Inclement weather service changes;
9. Current education and outreach materials;
10. Translation options available; and
11. Other relevant service information for its Customers.

The Contractor website shall provide the following functions for Customers to:

1. Obtain day-of-service information;
2. Report issues and receive a tracking number or other method to monitor progress on their issue;
3. Chat/instant message with a Customer Service agent rather than talk if desired;
4. Connect to voice services for Customer Service;
5. Review and pay bills;
6. Manage services; and
7. Switch service levels or order additional services;

Electronic Customer Service requests shall be answered within one (1) business day of receipt.

The website design shall be usability tested and then submitted to the City for approval a minimum of three (3) months prior to the Date of Commencement of Service of this Contract, and then changes shall be subject to the City's prior approval throughout the term of this Contract. The Contractor shall provide

among its local staff a knowledgeable and proficient communications manager that is responsive to the City's request(s) for changes to the Contractor's website. Changes requested by the City consisting of textual messages only shall be implemented within seventy-two (72) hours of the time of the request(s). Changes requested by the City, of a textual nature, that are related to an emergency or time-sensitive situation (such as an inclement weather event, windstorm, or event preventing access to a Customer's regular place of Container set-out) shall be implemented as soon as possible but not more than three (3) hours from of the time of request. Changes requested by the City that include a graphical component must be implemented within five (5) Days of the time of the request.

The Contractor shall provide timely updates to the website, and provide links to the City's website, checking on a regular basis that all links are current. The website shall include information requested by the City translated into a minimum of four (4) languages including English and Spanish. Upon the City's request, the Contractor shall provide a website utilization report indicating the usage and communication preferences.

The Contractor shall collect only the Customer information necessary to perform Contracted solid waste collection functions from websites, applications, and any other electronic media used by Customers. To the extent permitted by applicable law, any Customer data collected in the course of performing functions of this Contract shall be provided to the City upon request, but shall not be sold or otherwise provided to any other party.

#### **4.3.2.7 Full Knowledge of Garbage, Recyclables, and Compostables Programs Required**

The Contractor's Customer Service representatives shall be fully knowledgeable of all collection services available to Customers, including the various services available to Single-Family Residence, Multifamily and Commercial Customers. For new Customers, Customer Service representatives shall explain all Garbage, Recyclables, and Compostables 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, disposal and recycling options for items not accepted by Contractor, and other Customer concerns. Customer Service representatives shall be trained to inform Customers of Recyclables and Compostables preparation specifications. City policy questions shall be forwarded to the City for response.

The Contractor's Customer Service representatives shall have instantaneous electronic access to Customer Service data and history to assist them in providing excellent Customer Service. The Contractor shall provide the City with internal Customer Service representative training and support information specific to the City to allow the City to review and check information provided to Customer Service representatives and, in turn, provided to Customers. Any revisions to these materials shall be approved in writing (e-mail is acceptable) by the City prior to being used by Customer Service representatives.

#### **4.3.2.8 Customer Communications**

All Customer communications (other than routine service and billing interactions with individual Customers) shall be reviewed and approved by the City before distribution. This includes messaging in out-dialer recorded messages, billing statements, bill inserts, e-newsletters, email marketing, social media, website, mailed materials, printed materials, and other avenues of planned communications.

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 phone-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.

#### **4.3.3 Contractor's Customer Billing Responsibilities**

The Contractor shall be responsible for all billing functions related to the collection services required under this Contract. All Single-family Residence Customers shall be billed every-other-month or quarterly, and Multifamily and Commercial Customers shall be billed monthly. In no case shall a Customer's invoice be past due prior to the receipt of all services covered by the billing period. The Contractor's billing cycle parameters include, but are not limited to the service period, invoice date, due date, late fee date, reminder date(s), Container removal and stop-service date. The City reserves the right to review and provide feedback on the bill template used by the Contractor as to format and design to ensure Customer satisfaction. The Contractor shall evaluate and may incorporate the City's recommendations in good faith. Billing and accounting costs associated with Customer invoicing, including credit card fees, shall be borne by the Contractor, and are included in the service fees in Exhibit B. The Contractor may bill to Customers late payments and "non-sufficient funds" check charges, as well as the costs of bad debt collection, under policies and amounts that have been previously approved in writing by the City.

The Contractor shall offer paperless billing, including an autopay/electronic notification function that allows Customer to set up autopay and receive an e-mail or text notification of the amount and draw date of the payment, without requiring the Customer to navigate to the Contractor's website to obtain that information.

The Contractor shall be responsible for the following:

1. Generating combined Garbage, Recyclables, and Compostables collection bills for all Customers;
2. Generating bills printed double-sided, on at least thirty percent (30%) post-consumer recycled-content paper;
3. Generating bills that include at a minimum a statement indicating the Customer's current service level, current charges and payments, appropriate taxes and fees, Customer Service contact information and website information;
4. Generating bills that clearly state the date at which late fees will be assessed for non-payment;
5. Generating bills that have sufficient space on the front or back of the bill for educational or informational messaging, as directed by the City;
6. Accepting automatic ongoing payments from Customers via debit or credit card, checking or savings account withdrawal, or by wire transfer. No transaction fees may be levied on any Customer payments;
7. Accepting, processing, and posting payment data each business day;
8. Accepting bill inserts from the City for specific Customer sectors;
9. Maintaining a system to monitor Customer subscription levels, record excess Garbage or 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 six (6) years from the end of the

fiscal year in accordance with the City's record retention policy, and in a manner that is instantaneously accessible to Customer Service representatives needing to refer to Customer Service data and history;

10. Forecasting annual rate modifications needed to collect the Fixed Annual Charge component from Customers, remitting the proportionate amount of the County Fixed Annual Charge to the County monthly, and reconciling and reporting the aggregate Fixed Annual Charge component collected from Customers with amounts billed by County to Contractor.
11. Accepting and responding to Customer requests for service level changes, missed or inadequate collection services, and additional services;
12. Collecting unpaid charges from Customers for collection services; and
13. Implementing rate changes as specified in Section 5.3.

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 (e.g., Customer Service, service levels, and billing history) database. The Contractor shall ensure that, at a minimum, a daily backup of the account servicing database is made and stored off-site. The Contractor shall also provide the City with a copy of the account servicing database (excluding Customer financial information such as credit card or bank account numbers) sorted by Customer sector via e-mail, FTP site or electronic media upon request. The City shall have unlimited rights to use such account servicing database for the purpose of developing targeted educational and outreach programs, analyzing service level shifts or rate impacts, and/or providing information to successor contractors.

The Contractor shall track the aggregate Fixed Annual Charge component received by Contractor from Customer receipts. The Contractor shall total receipts for the Fixed Annual Charge component received from Customers during each July 1 to June 30 time period and deduct the City's Administrative Fee plus excise tax on the Administrative Fee from that amount to calculate the aggregate Fixed Annual Charge component collected during that period that is actually available to Contractor to pay the Fixed Annual Charge to the County. The resulting value shall be compared to the County Fixed Annual Charge paid by Contractor to the County during that same time period. The differential between those two amounts referenced in the preceding sentence shall represent the amount of any overpayment or underpayment which shall be subtracted or added to the subsequent year's aggregate Fixed Annual Charge component to be included in the Customer rates beginning January 1 of the following year.

Upon seven (7) 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.

#### **4.3.4 Reporting**

The Contractor shall provide monthly, annual, and ad hoc reports to the City. The Contractor report formats may be modified from time to time at the City's request at no additional charge to the City. In addition, the Contractor shall allow City access to pertinent operations information related to compliance with the obligations of this Contract, including but not limited to vehicle route assignment and maintenance logs, certified weight slips from Garbage, Recyclables, and/or Compostables facility, and Customer charges and payments.

Reports shall be focused on providing data in an easy to read fashion and must include sufficient information to determine that the terms of the Contract are being met, not general company promotion. Data shall be provided directly in the relevant report, preferably in Microsoft Excel form. Links to websites or company database functions do not fulfill the requirements of this section.

#### **4.3.4.1 Monthly Reports**

The Contractor shall provide a monthly report containing the following information for the previous month by the twenty-first (21<sup>st</sup>) Day of the following month. Reports shall be submitted in an electronic format approved by the City and shall be certified as accurate by the Contractor. At minimum, reports shall include a report for each of the following topics that is clearly labeled and identified by topic:

1. A log of all Customer complaints including Customer name, property name and address, date of contact, complaint, and resolution.
2. A tabulation of the number of Single-Family, Multifamily, and Commercial accounts by service level/Container size, and service frequency.
3. Total billed revenue, aggregate Fixed Annual Charge component collected with Administrative Fee and excise tax on Administrative fee removed, and the Fixed Annual Charge payments made to the County;
4. Report from the Contractor's Customer Service phone system showing total call volume, total calls answered, and average speed of answer.
5. Website utilization report showing total number of Customers managing their services on-line, total number of messages received via website, data on site usage, and other data or information as the City may require for internal reporting purposes.
6. A summary of total Garbage, Recyclables, and Compostables quantities collected (in tons) for each collection sector by month and year-to-date. Drop-box tonnage shall be separated out and shall include total number of hauls. The summary shall include program participation statistics including: a summary of Multifamily and Commercial participation in recycling programs and set-out statistics for Residential Garbage, Compostables, and Recyclables collection Services. Where item counts are more appropriate for certain Recyclables or Bulky Wastes (e.g. appliances, etc.), reporting item counts are sufficient. The summary shall include the names of facilities used for all materials and tonnage delivered to each facility.
7. A summary of Recyclables quantities by commodity including contamination levels and processing residues disposed as Garbage, and notice of any significant changes in market value, if any.
8. A list of Commercial Customers with Recyclables collection, including monthly Garbage Container capacity, monthly Recyclables Container capacity, percentage of available (150% threshold) Recyclables collection service utilized, and the amount of additional paid Recyclables capacity arranged by any Customer.
9. A description of any vehicle accidents, infractions, and reported leaks.
10. 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.
11. A description of any promotion, education, and outreach efforts, including where possible, samples of materials, and summary of any feedback or response received from Customers.
12. A description of Contractor activities and tonnages for City services and events.

If collection vehicles are used to service more than one Customer sector, the Contractor shall develop an apportioning methodology that allows the accurate calculation and reporting of collection volumes and

quantities from the different sectors. The apportioning methodology shall be subject to the prior review and written approval of the City, and shall be periodically verified through field-testing by the Contractor.

#### **4.3.4.2 Annual Reports**

On an annual basis, by the first working day of March, the Contractor shall provide a report containing the following information for the previous year:

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, and volume of, Recyclables and Compostables collection programs.
3. A discussion of opportunities and challenges expected during the current year, including steps being taken to take advantage of opportunities and resolve the challenges.
4. A discussion of promotion, education, and outreach efforts, and accomplishments for each sector.
5. An inventory of current collection vehicles and other major equipment, including model, year, make, serial or VIN number, assigned vehicle number, mileage (if vehicle), collection sector assigned to or used in, and maintenance history, including vehicle painting.
6. A list of Multifamily Customers eligible for Recycling and Compostables collection service but not receiving one or both services.
7. A list of Commercial Customers eligible for Recycling and Compostables collection service but not receiving one or both services.
8. A summary of the monthly logs of Customer requests, complaints, inquiries, site visits, and resolutions or results, as required in Section 4.3.4.1. The summary shall organize Customer requests, complaints, inquiries, and site visits by category (e.g., missed pickups, improper set-ups).
9. A sustainability report.

The annual report shall be specific to the City's operations, written in a format appropriate for contract management and shall not be a generalized listing of Contractor activities in the region or elsewhere.

#### **4.3.4.3 Ad Hoc Reports**

The City may request and receive from the Contractor up to six (6) ad hoc reports each year, at no additional charge 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 a City-defined format and with Microsoft software (or other City-approved software) compatibility within thirty (30) days of the request. These reports shall not require the Contractor to expend more than fifty (50) staff hours per year to complete.

#### **4.3.4.4 Other Reports**

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 Contract Term.

#### **4.3.5 Promotion and Education**

The Contractor, at its own cost and at the direction of the City, shall have primary responsibility for developing, designing, executing, and distributing public promotion, education, and outreach programs. The Contractor shall also have primary responsibility for Customer recruitment, providing annual service-oriented information and outreach to Customers, distributing City-developed promotional and educational pieces at the City's direction, and implementing ongoing recycling promotions, education, and outreach programs at the direction of the City.

Each year, the Contractor shall deliver an annual comprehensive service guide to each Single-Family Residential, Multifamily, and Commercial Customers which shall include, at a minimum, information on the proper preparation and disposal of Garbage, Recyclables, and Compostables; City rates information; disposal options for difficult-to-recycle items and Hazardous Wastes; collection guidelines; contact information; applicable services from this Contract; translation resources; assistance available from the Contractor; and any other pertinent information. The default distribution shall be a paper copy delivered to the Customer, with a Customer option to receive the service guide electronically instead of a hard copy.

New Customers shall receive a welcome packet comprised of materials from the comprehensive service guide for their sector. Customers may choose electronic or mailed copy. Hard copy mailed welcome packets must be mailed within seven (7) days.

Each September, the City and Contractor shall jointly plan the Contractor's specific promotion and education program for the following year, including adjustments in materials and/or targeted audiences and revisions to the Contractor's contamination reduction program (Section 4.1.11.1). Promotion and education materials may include inserts in Garbage bills, newsletters, e-newsletters, email blasts, social media posts, website content, cart hangers/tags, door hangers, postcards, interior posters, exterior signs, and other avenues directed by the City. The City may elect to assist the Contractor with development of promotional material layout and text, as staff time allows, however the Contractor shall be responsible for all design and development work, subject to City approval.

The Contractor shall provide translations of the proper preparation and disposal of Garbage, Recyclables, and Compostables into languages spoken by over five percent (5%) of the City's population.

Promotion, education and outreach materials shall be clear, accurate, reflective of the Contract and industry, contain professional visual graphics, be free of misleading information or typographical errors, and include translation information. All promotion and education materials provided to Customers by the Contractor shall be approved in advance by the City. The Contractor shall provide the City with a minimum of a one (1) week advance review period for social media posts, email blasts, and electronic promotion, and minimum of a two (2) week advance review period for all printed materials. All edits and design changes shall be completed at Contractor's expense.

All printed materials shall be printed on minimum thirty percent (30%) post-consumer recycled paper and have sufficient copies to fulfill requests from Customers and the City. Electronic copies of materials shall be provided to the City and posted on the Contractor's website with file size not to exceed 2 MB each.

The Contractor shall attend a minimum of two community events per year in the Service Area to provide an educational booth for event attendees. Events shall be selected in coordination with the City and may include City-sponsored events/festivals, farmers markets, block parties, or other community gatherings.

The Contractor shall contact the manager or owner of all Multifamily sites within the Service Area by phone and/or in-person visits to encourage Recycling and Composting participation, address concerns, space or contamination problems, provide outreach to residents, and inform the manager or owner of all available Recycling and Composting services and ways to decrease Garbage generation. The Contractor shall provide copies of educational materials, including translated versions, and reusable tote bags for each resident upon request of the City or the Multifamily manager or owner. The Contractor shall coordinate and work cooperatively with City staff and/or consultants hired to conduct outreach and education, and provide technical assistance.

#### **4.3.6 Transition to Next Contractor**

The Contractor shall work with the City and any successive contractor in good faith to ensure minimal Customer disruption during the transition period from the City's previous contractor to the City's new Contractor.

In the event that the City does not elect to retain the Contractor's Containers pursuant to Section 4.1.14.3, the Contractor shall remove any Containers for all services or any portion of services provided under this Contract upon sixty (60) Days written notice from the City. Container removal and replacement shall be coordinated between the Contractor and a successive contractor to occur simultaneously in order to minimize Customer inconvenience.

Upon written request of the City at any time during the term of this Contract, the Contractor shall provide either the City or a successive contractor a detailed customer list, including customer name, contact information, service address, billing address, and collection and Container rental service levels to the City in Microsoft Excel format (or other City-approved format) within seven (7) Days of the City's request.

Failure to fully comply with this Section 4.3.6 shall result in the forfeiture of the Contractor's performance bond, at the City's discretion.

#### **4.3.7 Customer Service Center and Store**

The Contractor shall operate a Customer Service center and store in or within five miles of the Service Area limits. The store shall be open no less than forty (40) hours per week. The store shall provide Customers with the following: customer service assistance; host City-sponsored education events, waste zero presentations, virtual MRF tours, and other waste reducing events; and a Recycling education center with information on how to decrease waste including posters and brochures. The Customer Service center and store may sell items that help residents reduce waste such as reusable lunchboxes, mugs, cloth napkins and items made from recyclable materials. The Customer Service center and store shall provide Customers a no-cost drop-off location for the following recyclable items that are not accepted Curbside: certain small appliances, electronics, batteries, bikes, books, cooking oil, electronics, fluorescent bulbs, propane canisters, cooking oil and Styrofoam™. Upon mutual agreement between Contractor and City, the Customer Service center and store may add or delete specific recyclable items to the foregoing for acceptance at the store in response to current City needs and commodity end-market availability.



## **5. COMPENSATION**

### **5.1 Compensation to the Contractor**

#### **5.1.1 Rates**

The Contractor shall be responsible for billing and collecting funds from Single-family Residence, Multifamily, and Commercial Customers in accordance with the charges for services listed in Exhibit B. The Contractor may reduce or waive at its option, but shall not exceed, the charges listed in Exhibit B. 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. The payment of charges for services listed in Exhibit B by Customers shall comprise the entire compensation due to the Contractor.

In the event that a Customer places Excluded Materials or Unacceptable Materials in a Container, and the Contractor collects those materials inadvertently and incurs extraordinary expenses dealing with those materials, the Contractor may charge the Customer the actual costs of managing those materials, as approved by the City. Actual costs shall include additional transportation, handling, and disposal costs incurred by the Contractor for handling only those specific materials traceable to that Customer.

The City is not required under this Contract to make any payments to the Contractor for the Services performed, or for any other reason, except as specifically described in this Contract, or for services the City obtains as a Customer.

In the event that Contractor or a Customer desires services not specifically addressed in this Contract, the Contractor shall propose service parameters and a rate to the City in writing, based on the an adjacent Contractor WUTC tariff if the Contractor operates in such an area or an average of surrounding WUTC tariffs if the Contractor does not operate in an adjacent WUTC tariff area. Upon the City's written approval, the Contractor may provide the requested services. In no case shall the Contractor provide unauthorized services or charge unauthorized rates.

#### **5.1.2 Itemization on Invoices**

The Fixed Annual Charge component and all applicable City, County, and State solid waste or Hazardous Waste taxes or fees, utility taxes, and certain sales taxes shall be itemized separately on Customer invoices and added to the charges listed in Exhibit B, except that the City Administrative Fee shall be included in Exhibit B rates and shall not be itemized separately on Customer invoices.

The Contractor shall not charge separately for the collection of Source-Separated Recycling collection, other than Commercial Recyclables collection in excess of the one hundred fifty percent (150%) threshold limitation described in Section 4.2.5.3.

Charges for excess Garbage or Compostables, Single-family, Multifamily and Commercial Compostables collection, Drop-box Container On-call collection services, On-call Bulky Waste collection services, Container rentals, or temporary Container services shall be itemized on the Customer invoices separately by the Contractor, and may at no time exceed the charges set forth in Exhibit B.

The County Tipping Fee as it exists on the date of execution or as thereafter modified shall be itemized separately on Customer invoices with charges for Drop-box Container service. The Contractor shall charge Drop-box Customers the actual disposal cost plus twelve percent (12%) and the current state excise tax on the disposal component.

The Contractor shall not separately charge sales tax for services that include any Container as part of the overall service package. Only Services that separate and itemize optional Container rental (specifically Drop-box Container rental) shall have sales tax charged and listed on Customer invoices. The Contractor shall pay appropriate sales tax upon purchase of all equipment and Containers, and those costs are included in the rates provided in Exhibit B. In no case shall Customers be separately charged sales taxes paid by the Contractor on its equipment and Containers.

Except as otherwise expressly provided for by the Contract, the Contractor shall not adjust or modify rates due to employee wage increases, changes in Compostables processing fees (except as provided for in Section 5.3.2), Garbage collection service level shifts, or other changes affecting the collection system.

## **5.2 Compensation to the City**

The Contractor shall pay to the City a one-time fee of thirty-six thousand dollars (\$36,000) upon Contract execution to cover City costs for procuring this Contract.

The Contractor shall also pay to the City an Administrative Fee of 6% on or before the fifteenth (15<sup>th</sup>) day of each month during the term of this Contract, starting the month following the initiation of the fee. The Administrative Fee shall be based on the gross receipts received by the Contractor from all Customers under this Agreement, excluding Drop-box Container Tipping Fees. The Contractor's obligations to pay the Administrative Fee shall survive the termination date of this Contract until the Contractor is no longer receiving payments from Customers for services provided under this Contract.

The Contractor shall fully participate with any City billing audit to confirm the Contractor's Customer 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 may implement or change the Administrative Fee level in any year, provided that the change is synchronized with the annual Contractor rate modification described in Section 5.3.1. The City shall notify the Contractor of the new Administrative Fee for the following year by September 1<sup>st</sup>, and the Contractor shall itemize and include the appropriate adjustment in its Rate Adjustment Statement provided October 1<sup>st</sup> of each year. In the event that the Administrative Fee is adjusted, either up or down, the Contractor shall add or subtract an amount equivalent to the State excise tax (1.75% in 2021), as may be adjusted from time to time by the State.

In addition, the Contractor shall be responsible for payment of all applicable permits, licenses, fees and taxes as described in Section 8.10, Permits and Licenses.

## **5.3 Compensation Adjustments**

### **5.3.1 Initial and Annual CPI Service Component Modification**

The collection fee component of the Contractor's service fees contained in Exhibit B, and the miscellaneous fees and charges contained in Exhibit B that do not have separate disposal fee components, for each level of service shall increase each year by one hundred percent (100%) of the annual percentage change in the Consumer Price Index (CPI) for Seattle-Tacoma-Bellevue, Urban Wage Earners and Clerical Workers, All items, Series ID: CWURS49DSA0 (1982-84=100) prepared by the United States Department of Labor, Bureau of Labor Statistics, or a replacement index. Adjustments shall be based on the twelve (12) month period ending June 30<sup>th</sup> of the previous year that the request for increase is made. For example, an adjustment to the Contractor's collection service charge effective January 1, 2025, will be based on the CPI for the twelve (12) month period ending June 30, 2024.

An initial adjustment of the Exhibit B rates shall be performed in September 2023, based on the twelve (12) month period ending June 30, 2023. The adjusted rates shall be in effect from the Date of Commencement of Service through December 31, 2024. The rate modification notification to Customers shall be provided in informational materials provided as part of the new Contract roll-out.

Beginning January 1, 2025, Contractor's collection fee component shall be adjusted annually pursuant to this section. The Contractor shall submit in writing and electronic form to the City for review and verification a Rate Adjustment Statement, calculating the new rates for the next year, on or by October 1<sup>st</sup> of each year, starting October 1, 2024.

In the event that the CPI index series decreases year-to-year, the collection fee component and miscellaneous fees and charges shall remain unchanged. In the event that the CPI index series increases over five percent (5%) year-to-year, the actual adjustment used shall be capped at five percent (5%). Whether a cap or a floor is applied in a given year under this paragraph shall have no effect on the following year's CPI adjustment.

Adjustments under this Section 5.3.1 shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall be truncated and not be considered when making adjustments.

In the event that the Contractor does not submit a Rate Adjustment Statement by October 1<sup>st</sup>, the City shall calculate and unilaterally implement a rate adjustment based on the best available information as of October 1<sup>st</sup> of that year for the applicable period and the Contractor may not appeal this action. On the City's review and verification, absent any City exception to the Contractor's calculations, the new rates shall take effect on January 1<sup>st</sup> of the following year. An example of rate adjustments due to Consumer Price Index changes is provided in Exhibit D.

### **5.3.2 Changes in Tipping Fee and Fixed Annual Charge**

Annual adjustments shall be made to the Tipping Fee component and Fixed Annual Charge component of Customer charges contained in Exhibit B to reflect increases or decreases in the Tipping Fee or Fixed Annual Charge charged by County.

In the event of a change in the Tipping Fees, the Tipping Fee component of each Customer charge shall be adjusted by the percentage increase or decrease in the County Tipping Fee.

The amount of each year's Fixed Annual Charge is to be provided by the County to the City and Contractor no later than September 1st of the year preceding in which the Fixed Annual Charge is to take effect. The City's Administrative Fee plus excise tax on the Administrative Fee shall be added to the Fixed Annual Charge component of the rate annually. The aggregate value of the Fixed Annual Charge component to be included in Customer rates each year shall be calculated to be the forecasted amount equal to the Fixed Annual Charge assessed on the Contractor by County plus the applicable Administrative Fee and excise tax on Administrative Fee, and further modified by any overpayment or underpayment calculated pursuant to Section 4.3.3. The Fixed Annual Charge component of the Customer charges shall be applied to all regular Garbage services and Garbage Drop-Box services, but shall not apply to Bulky Waste, Extra Units, temporary Detachable Container, Recyclables, or Compostables services. This component shall be allocated among applicable Customer subscriptions and calculated annually as a proportion of monthly Container volume for the current Customer counts.

In the final year of the Contract, the Fixed Annual Charge component included in Customer charges shall be increased by a percentage to be mutually determined by the Contractor and City over and above what is required to be collected by Contractor to satisfy payment of the County's Fixed Annual Charge in order to avoid underpayment by Customers of an amount equal to at least the Fixed Annual Charge assessed on Contractor plus the applicable Administrative Fee and excise tax on the Administrative Fee. Any overpayment by Customers to Contractor of the Fixed Annual Charge component that exceeds amounts required to be paid by Contractor to satisfy its payment obligations of the Fixed Annual Charge, Administrative Fee, and excise tax on Administrative Fee at the end of the Contract shall be paid to the City.

The Contractor's obligation to pay the Fixed Annual Charge components collected from Customers 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.

Adjustments to the Contractor's Tipping Fee component and Fixed Annual Charge component on rates shall be made in units of one cent (\$0.01). Fractions less than one cent (\$0.01) shall not be considered when making adjustments. Specific examples of rate modifications due to changes in Consumer Price Index, Tipping Fee, and Fixed Annual Charge are provided in Exhibit D.

In the event that Compostable processing fees that the Contractor pays a third party increase substantially more than the escalation factor described in Section 5.3.1 due to changes in law or regulation, the Contractor may submit to the City a request to consider a compensating rate adjustment for the amount of the impact above the normal inflationary adjustment. Any request shall be made in conjunction with the annual rate process. The City shall review the request promptly and may, at its sole discretion, allow the Contractor to increase rates by a City-specified amount to compensate for increased Compostables processing costs.

### **5.3.3 Changes in Disposal or Compostables Processing Sites**

If the Contractor is required by the City or other governmental authority to use Garbage disposal or Compostables processing sites other than those being used at the initiation of this Contract, the Contractor shall submit a detailed proposal for the adjustment of the rates to reflect any additional cost or savings to the Contractor. It is intended that the Contractor's rates pursuant to this Contract in such a case will be adjusted so as to pass through any resulting additional costs incurred by the Contractor to the

Contractor or any additional savings to the Contractor to Customers. The City and Contractor agree to negotiate in good faith to make any changes to the rates to accomplish a pass-through of any such costs or savings.

#### **5.3.4 Recycling Commodity Value**

The City and Contractor agree that the Contractor rates in Exhibit B include all Recyclables processing and marketing costs, including processing residual disposal. The Contractor shall retain revenues gained from the sale of Recyclables. Likewise, a tipping or acceptance fee charged for Recyclables shall be the financial responsibility of the Contractor.

#### **5.3.5 New or Changes in Existing Taxes**

If new municipal, county, regional, or State taxes or fees are imposed, the rates of existing taxes (other than federal taxes) or fees are changed, or new road or bridge tolls necessarily affecting the Contractor's operations under this Contract imposed after the Date of Execution of this Contract, and the impact of these changes results in increased or decreased Contractor costs in excess of five thousand dollars (\$5,000) in the aggregate annually, the Contractor shall submit a detailed proposal for the adjustment of the rates to reflect any additional costs or savings to the Contractor. It is intended that the Contractor's rates pursuant to this Contract in such a case be adjusted so as to pass through any resulting additional costs incurred by the Contractor to the Contractor or any savings realized to the Contractor to the City. The Contractor and City shall enter into good faith negotiations to determine whether compensation adjustments are appropriate for the amount exceeding the five thousand dollar (\$5,000) aggregated threshold (in cases in which the threshold applies) and if so, to determine the amount and the method of adjustment.

#### **5.3.6 Changes in Service Provision**

In the event that either the Contractor initiates any changes in how Contract services are provided that reduce Contractor costs and cause adverse Customer impacts in the opinion of the City, the Contractor shall promptly notify the City in writing of such reduced costs, and rates shall be reduced within thirty (30) Days of the subject change so that the City and the Contractor's Customers shall receive the benefit of fifty percent (50%) of the cost savings. Contractor changes in how Contract services are provided that do not adversely affect Customers shall not affect Customer rates.

#### **5.4 Change in Law**

The City may consider an adjustment to rates as a result of changes in federal, state, or local laws or regulations, the administrative or judicial interpretation thereof, or an order or judgement of any governmental authority, not addressed otherwise in this contract that affect the Contractor's cost in excess of five thousand dollars (\$5,000) in the aggregate annually. The Contractor shall submit a detailed proposal for the adjustment of the rates to reflect any additional costs or savings to the Contractor. It is intended that the Contractor's rates pursuant to this Contract in such a case be adjusted so as to pass through any resulting additional costs incurred by the Contractor to the Contractor or any savings realized to the Contractor to the Customers or City. The Contractor and City shall enter into good faith negotiations to determine whether compensation adjustments are appropriate for the amount exceeding

the five thousand dollar (\$5,000) aggregated threshold (in cases in which the threshold applies) and if so, to determine the amount and the method of adjustment.

## 6. 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 specific performance fees for certain infractions and through Contract default for more serious lapses in service provision. Section 6.1 details infractions subject to performance fees and Section 6.2 details default provisions and procedures.

### 6.1 Performance Fees

The City reserves the right to make periodic, unscheduled inspection visits to determine the Contractor's compliance with the provisions and requirements of this Contract. In the event that the City's inspection reveals that the Contractor has failed to satisfactorily perform any duties of this Contract, the City shall present an incident report to the Contractor detailing such unsatisfactory performance. The Contractor and the City agree that upon receiving such report, the Contractor shall pay the following dollar amounts, not as a penalty, but as performance fees for failure to satisfactorily perform its duties under this Contract. The City and the Contractor agree that the City's damages would be difficult to prove in any litigation and that these dollar amounts are a reasonable estimate of the damages sustained by the City as a result of the Contractor's failure to satisfactorily perform its duties under this Contract. The performance fees in this Section 6.1 shall not apply to the service impacts of Labor Disruptions, as separate performance fees shall apply under those circumstances, as described in Section 4.2.10.

Performance fees shall include:

	Action or Omission	Performance fees
1	Collection before or after the times specified in Section 4.1.3, except as expressly permitted in writing.	Five hundred dollars (\$500) per incident (each vehicle on each route is a separate incident).
2	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, crossing planted areas, or similar violations.	One hundred dollars (\$100) per incident, not to exceed five hundred dollars (\$500) per vehicle per Day.
3	Failure to initiate clean-up or collect leaked or spilled materials and/or failure to notify the City within three (3) hours of Contractor knowledge of such release.	The cost of cleanup to the City, plus five hundred dollars (\$500) per incident.
4	City observed leakage or spillage from Contractor vehicles or of vehicle contents.	Five hundred dollars (\$500) per vehicle, per inspection, plus clean-up costs (and potential code fines/penalties).
5	Failure to replace a leaking Container within one (1) business day of notification.	One hundred dollars (\$100) per incident, and then one hundred dollars (\$100) per Day that the Container is not replaced.

	<b>Action or Omission</b>	<b>Performance fees</b>
6	Failure to collect missed materials within one (1) business day of notification.	One hundred dollars (\$100) per incident to a maximum of five hundred dollars (\$500) per vehicle per Day.
7	Missed collection of a block segment of Single-Family Residences (excluding collections prevented by inclement weather, but not excluding collections prevented by inoperable vehicles). A block segment is defined as one side of a street, between cross-streets, not to exceed fifty (50) houses.	Two hundred fifty dollars (\$250) per block segment if collection is performed the following day; one thousand dollars (\$1,000) if not collected by the following Day.
8	Collection as Garbage of non-contaminated Source-separated Recyclables, Yard Debris, or Compostables in clearly identified Containers, Carts, bags, or boxes.	One thousand dollars (\$1,000) per incident.
9	Rejection of Garbage, Recyclables, or Compostables without providing documentation to the Customer of the reason for rejection.	One hundred dollars (\$100) per incident.
10	Failure to deliver or remove Containers within three (3) business days of request to Multifamily or Commercial Customers requesting service after the Date of Commencement of Service.	One hundred dollars (\$100) per incident.
11	Failure to deliver or remove Garbage, Recyclables, or Compostables Containers within seven (7) Days of request to Single-Family Residence Customers requesting service after the Date of Commencement of Service.	One hundred dollars (\$100) per incident.
12	Misrepresentation by Contractors in records or reporting.	Five thousand dollars (\$5,000) per incident.
13	Failure to provide the required annual, monthly, or ad hoc report on time.	Five hundred dollars (\$500) per Day past deadline.
14	Failure to maintain clean, sanitary, properly painted, and properly labeled Containers.	Fifty dollars (\$50) per incident, up to maximum of one thousand dollars (\$1,000) per inspection.
15	Failure to maintain Contract-compliant vehicles.	Fifty dollars (\$50) per incident, up to maximum of one thousand dollars (\$1,000) per inspection.
16	Failure to meet Customer Service answer and on-hold time performance requirements.	One hundred dollars (\$100) per Day.
17	Failure to meet the service and performance standards listed in Section 4.3.2 of this Contract for a period of two (2) consecutive months.	Two hundred and fifty dollars (\$250) per Day until the service standards listed in Section 4.3.2 are met for ten (10) consecutive business days.
18	Failure to ensure that all Customers have Contract-compliant Garbage, Recyclables, and Compostables Containers on or before the Date of Commencement of Service.	Five thousand dollars (\$5,000) per day, plus twenty-five dollars (\$25) per Container for each

	<b>Action or Omission</b>	<b>Performance fees</b>
		incident occurring after the Date of Commencement of Service.
19	Failure to include City-authorized instructional/promotional materials when Garbage, Recycling, and/or Compostables Containers are delivered to Single-Family Residences, or failure to affix required City-authorized labels on Containers.	One hundred dollars (\$100) per incident.
20	Failure to separate collection of Recyclables materials from Service Area Customers from non-Service Area customers.	Five thousand dollars (\$5,000) per route per day.
21	Failure to properly use an authorized switchable placard or nameplates as described in Section 4.1.13.	One hundred dollars (\$100) per placard per vehicle per Day.
22	Inability to reach the Contractor's staff via the emergency phone number.	Two hundred-fifty dollars (\$250) per incident.
23	The use of outdated, or unauthorized labels, or lack of required labels on Contractor-provided Containers.	One hundred dollars (\$100) per Container.
24	Failure to have correct rates for all Customer sectors and service levels listed on the Contractor's website.	Two hundred-fifty dollars (\$250) per Day.

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 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 6.2.

Performance fees, if assessed during a given month, shall be invoiced in writing by the City to the Contractor. The Contractor shall be required to 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, and shall accrue penalty charges of eight percent (8%) per month of the amount of any delinquent payments.

Any performance fees assessed against the Contractor may be appealed by the Contractor in writing to the City within ten (10) Days of being invoiced for assessed performance fees. The Contractor shall be allowed to present evidence as to why the amount of the assessed performance fees should be lessened or eliminated, including the provision of incorrect information provided by a previous contractor for contract failures during the initial transition period. The City's decision shall be final and not subject to appeal.

## **6.2 Contract Default**

The Contractor shall be in default of this Contract if it violates any material provision of this Contract. In addition, the Contractor shall be in default of the Contract should any of the following occur, including, but not limited to:

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 the Date of Commencement of Service, or for a period of more than five (5) consecutive Days at any time during the term of this Contract, except as provided pursuant to Section 4.1.18;



2. The Contractor fails to obtain and maintain any permit, certification, authorization, or license required by the City, County, or any federal, state, or other regulatory body in order to collect materials under this Contract, or comply with any environmental standards and regulations;
3. The Contractor's noncompliance creates a hazard to public health or safety or the environment;
4. The Contractor disposes of uncontaminated Source-separated Recyclables or Compostables collected from clearly identified Recyclables or Compostables Containers, bags, or boxes in a landfill or incinerated at an incinerator or energy recovery facility, without the prior written permission of the City;
5. The Contractor fails to make any required payment to the City, as specified in this Contract;
6. The Contractor is assessed performance fees pursuant to Section 6.1 in excess of fifteen thousand dollars (\$15,000) during any consecutive six (6) month period; or
7. The Contractor fails to resume full service to Customers within twenty-one (21) Days following the initiation of a labor disruption pursuant to Section 4.1.18.

The City reserves the right to pursue any remedy available at law or in equity 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 (including but not limited to a hazard to public health or safety or the environment) that does not allow ten (10) Days prior written notice, the City shall promptly notify the Contractor of its intent to exercise its rights. 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 effective immediately.

If Contractor abandons or violates any material provision 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 then 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 the Contractor's performance bond. Upon receipt of such notice, the Contractor agrees that it shall promptly discontinue the services provided under this Contract. The surety of the Contractor's performance bond 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.

In the event that the surety on the Contractor's performance bond 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 contract with another party or any other means.

The City shall be entitled to recover from Contractor and the surety on Contractor's performance bond as damages all expenses incurred, including reasonable attorneys' 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. A surety performing under this Contract shall be entitled to payment in accordance with this Contract for Contract services provided by the surety, and shall otherwise be subject to the same rights and obligations with respect to the Contract services furnished by the surety as would be applicable if the Contract services were to be performed by the Contractor. The City's obligation to pay for such Contract services shall be subject to satisfactory performance by the surety as well as to setoffs or recouplements for sums, if any, owed by Contractor to City on account of Contractor's abandonment or default.

If the City employees provide Garbage, Recyclables or Compostables collection, the actual incremental costs of City labor, overhead, and administration shall serve as the basis for a charge to the Contractor and the surety on the Contractor's performance bond.

## **7. NOTICES**

Routine communications between the Contractor and the City's contract manager shall be conducted via e-mail unless otherwise required under this Contract. All notices referencing change of ownership, penalties, rate requests, performance fees, or Contract default shall be e-mailed and provided in writing, personally served, or mailed (postage-prepaid and return receipt requested), addressed to the Parties as follows, or as amended by either Party, in writing, from time to time. The Contractor shall provide e-mail addresses for use by the City when sending notices of penalties, performance fees, or Contract default:

To the City:

**Director of Public Works**  
City of Tukwila  
6300 Southcenter Blvd, Suite 200  
Tukwila, WA 98188-2544

To Contractor:

**Recology King County, Inc.**  
801 S Fidalgo St, Suite 100  
Seattle, WA 98108

## **8. GENERAL TERMS**

### **8.1 Collection Right**

Throughout the Contract Term, the Contractor shall be the exclusive provider with which the City shall contract to collect Garbage, Compostables and Recyclables placed in designated Containers and set out in the regular collection locations within the City Service Area subject to this Contract. When asked by the Contractor, the City shall make a good faith effort to protect the exclusive rights of the Contractor under this Contract; however, the City shall not be obligated to instigate, join in or contribute to the expense of litigation to protect the exclusive rights of the Contractor unless the City's institution of or joinder in such litigation is necessary for the protection of such rights. 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 the Contractor (without obligating the City to join any such litigation, except for as provided in this paragraph). Such efforts may include but not be limited to cease and desist letters, assistance with documenting violations, and other activities as City staff time reasonably allows.

This Contract provision shall not apply to Garbage, Recyclables, or Compostables self-hauled by the generator; to Source-separated materials hauled by common or private carriers (including drop-off recycling sites); or to construction/demolition waste hauled by self-haulers or construction or demolition contractors in the normal course of their business.

The Contractor shall retain the right and cover all costs to dispose of or process and market the Garbage, Recyclables, and Compostables once these materials are placed in Contractor-provided or the City -owned Containers. The Contractor shall retain revenues gained from the sale of Recyclables or Compostables. Likewise, a tipping or acceptance fee charged for Recyclables or Compostables shall be the financial responsibility of the Contractor.

## **8.2 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 seven (7) years thereafter, maintain in an office within thirty (30) miles of the Service Area for storing 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, subject to the same protections of the Contractor's financial or other proprietary information set forth in Section 5.3.

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.

## **8.3 Insurance**

The Contractor shall procure and maintain, for the Term of the Contract, insurance that meets or exceeds the coverage set forth below, as determined in the sole reasonable discretion of the City. The cost of such insurance shall be paid by the Contractor.

Contractor's maintenance of insurance as required by this Contract 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.

### 8.3.1 Minimum Scope of Insurance

The 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. If necessary, the policy shall be endorsed to provide contractual liability coverage. The policy shall include the ISO CA 9948 Form (or its equivalent) for transportation of cargo and a MCS 90 Form in the amount specified in the Motor Carrier Act. The policy shall include a waiver of subrogation in favor of the City. The City shall be named as an additional insured under the Contractor's Automobile Liability insurance policy.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01, or a substitute form providing equivalent liability coverage 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. 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 endorsements CG 2010 0704 and CG 2037 0704.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State.
4. Contractor's Pollution Liability insurance coverage covering any occurrence of bodily injury, personal injury, property damage, cleanup costs, and legal defense expenses applying to all work performed under the contract, including that related to transported cargo. The City shall be named as an additional insured under the Contractor's Pollution Liability insurance policy.

### 8.3.2 Minimum Amounts of Insurance

Contractor shall maintain at a minimum the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of five million dollars (\$5,000,000) for each accident. Limits may be achieved by a combination of primary and umbrella policies.
2. Commercial General Liability insurance shall be written with limits no less than five million dollars (\$5,000,000) for each occurrence, five million dollars (\$5,000,000) general aggregate, and a two million dollar (\$2,000,000) products-completed operations aggregate limit. Limits may be achieved by a combination of primary and umbrella policies.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State.
4. Contractor's Pollution Liability insurance shall be written with limits no less than three million dollars (\$3,000,000) combined single limit for each pollution condition for bodily injury, personal injury, property damage, cleanup costs, and legal defense expense.

### **8.3.3 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. The City, its officials, officers, employees, agents, and volunteers shall be named as additional insureds on the Contractor's Automobile Liability, Commercial General Liability, and Pollution Liability insurance policies, via blanket-form endorsement.
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. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be canceled except after the Contractor endeavors to provide thirty (30) Days prior written notice has been given to the City. Such notice shall be sent directly to the City. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the City of any cancellation of any insurance immediately on receipt of insurers' notification to that effect.

### **8.3.4 Acceptability of Insurers**

Insurance is to be placed with insurers with a current AM Best rating of not less than A-:VII.

### **8.3.5 Verification of Coverage**

The Contractor shall furnish the City Administrator and City Attorney with original certificates and a copy of the blanket-form amendatory endorsements as required herein, including, but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the Contractor at least thirty (30) Days before the Date of Commencement of Service of this Contract.

### **8.3.6 Subcontractors**

Contractor will request all subcontractors performing work in connection with this Agreement to maintain the following minimum insurance: Workers' Compensation in accordance with applicable law or regulation, Employer's Liability with limits of \$1,000,000, Commercial General Liability with limits of \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate, and Automobile Liability insurance with limits of \$1,000,000.

## **8.4 Performance Bond**

The Contractor shall provide and maintain at all times a valid Contractor's Performance and Payment Bond(s) in a form acceptable and approved by the City in the amount of seven hundred and fifty thousand dollars (\$750,000). The bond(s) shall be issued for a period of not less than one (1) year, and the Contractor

shall provide new bond(s) to the City no less than sixty (60) Days prior to the expiration of the bond(s) then in effect. The City shall have the right to call the bond(s) in full in the event its renewal is not confirmed prior to five (5) Days before its expiration.

## **8.5 Indemnification**

### **8.5.1 Indemnify and Hold Harmless**

The Contractor shall indemnify, defend, protect, and hold harmless the City, its elected and appointed officials, officers, employees, representatives and agents, from any and all third party claims or suits, and any damages, costs, judgments, awards or liability resulting from such claims or suits, (a) for injury or death of any person or damage to property to the extent the same is caused by the actual or alleged negligent acts or omissions, or willful misconduct, of Contractor, its agents, servants, representatives, officers, or employees in the performance of this Contract and any rights granted hereunder, or b) to the extent such claim or demand is caused by Contractor's unlawful release of Hazardous Waste in violation of any Environmental Law in its performance of Services and exercise of any rights granted hereunder. This indemnity under subsection 8.5.1(b) includes each of the following to the extent the same is caused by Contractor's unlawful release of Hazardous Substances in violation of applicable Environmental Laws: (i) liability for a governmental agency's costs of removal or remedial action for such release by Contractor of Hazardous Waste; (ii) damages to natural resources caused by Contractor's release of Hazardous Waste, including reasonable costs of assessing such damages; (iii) liability for any other person's costs of responding to such release by Contractor of Hazardous Waste; and (iv) liability for any costs of investigation, abatement, correction, cleanup, fines, penalties, or other damages arising under any Environmental Laws that are caused by Contractor's release of Hazardous Waste. Provided, however, such indemnification shall not extend to any portion of any claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorneys' fees caused by the willfully tortious, or negligent acts or omissions of the City, its agents, employees, official, officers, contractors or subcontractors.

### **8.5.2 Process**

In the event any claim for such damages be presented to or filed with the City, the City shall promptly notify Contractor thereof, and Contractor shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim. In the event any suit or action is filed against the City based upon any such claim or demand, the City shall likewise promptly notify Contractor thereof, and Contractor shall defend such claim at its sole cost and expense and with legal counsel agreed to by the City; provided, Contractor shall not settle any such suit or action without the express written agreement by the City. The indemnification obligations set forth herein shall extend to claims which are not reduced to a suit and any claims which may be compromised, with Contractor's written consent, prior to the culmination of any litigation or the institution of any litigation. The City also has the right to defend or participate in the defense of any such claim at its own cost and expense, provided that Contractor shall not be liable for such settlement or other compromise unless it has consented thereto in writing.

The provisions contained herein have been mutually negotiated by the Parties. Solely to the extent required to enforce the indemnification provisions of this Section 8.5.1, Contractor waives its immunity under Title 51 RCW, Industrial Insurance; provided, however, the foregoing waiver shall not in any way

preclude Contractor from raising such immunity as a defense against any claim brought against Contractor by any of its employees.

Inspection or acceptance by the City of any Services performed under this Contract shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised, with Contractor's prior written consent, prior to the culmination of any litigation or the institution of any litigation.

The provisions of this Section 8.5 shall survive the termination or expiration of this Contract.

## **8.6 Confidentiality of Information**

Pursuant to the Washington Public Records Act ("PRA"), chapter 42.56 RCW, public records, as defined by the PRA may be subject to disclosure upon request by any person, unless the documents are exempt from public disclosure by a specific provision of law.

If the City receives a request for inspection or copying of any documents Contractor-provided documents that have been identified as confidential and proprietary, it shall promptly notify the Contractor in writing regarding the public records request. The City will give the Contractor ten (10) business days after such notification within which to obtain a court order prohibiting the release of the documents. The City assumes no contractual obligation to enforce any exemption under the PRA.

## **8.7 Assignment of Contract**

### **8.7.1 Assignment or Pledge of Money by the Contractor**

The Contractor shall not assign or pledge any of the money due under this Contract without securing the prior written approval of the surety of the Contractor's performance bond and providing at least thirty (30) day's prior written 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. The requirements of this section shall not apply to the grant of a general security interest in the Contractor's assets to secure the Contractor's obligations under any loan or credit facility entered into by the Contractor or the Contractor's parent.

### **8.7.2 Assignment, Subcontracting, and Delegation of Duties**

The Contractor shall not assign or subcontract any of the services provided under this Contract or delegate any of its duties under this Contract without the prior written approval of the City, which may be granted or withheld in the City's sole discretion.

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 services to be provided under this Contract. The City may impose conditions of approval on any such assignment, subcontracting, or Change of Control, including but not limited to requiring the delivery by the assignee, subcontractor, or other obligor of its covenant to the City to fully and faithfully complete the services to

be provided under this Contract or responsibilities 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.

For the purposes of this Contract, any Change of 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.

### **8.7.3 Change of Trade Name**

In the event the Contractor wishes to change the trade name under which it does business under this Contract, the Contractor shall provide the name, logo, and colors under which it will be doing business in writing to the City at least thirty (30) Days prior to the effective date of its change of trade name. Within a reasonable period following a change of trade name by the Contractor, all items, logos, articles, and implements seen by the public shall be changed, including but not limited to letterhead, signs, promotional materials, website pages, billing statements, envelopes, Container decals, and other items. Vehicles are the only exception; vehicles must be repainted with new trade name, and any new logo or colors, within two (2) years of the effective date of the change of trade name. Failure to comply with the terms of this section shall result in performance fees assessed against the Contractor in accordance with Section 6.1.

### **8.8 Laws to Govern/Venue**

This Contract shall be governed by the laws of the State both as to interpretation and performance. Venue shall be the County Superior Court.

### **8.9 Compliance with Applicable Laws and Regulations**

The Contractor shall comply with all federal, State, and local regulations and ordinances applicable to the work to be done under this Contract. Any violation of the provisions of this section shall be considered a violation of a material provision of this Contract and shall be grounds for cancellation, termination, or suspension of the Contract by the City, and may result in ineligibility for further work for the City.

The Contractor agrees not to discriminate against any employee or applicant for employment or any other persons in the performance of this Contract because of race, religion, creed, color, national origin, marital status, gender, age, disability, sexual orientation, gender identity, or other circumstances as may be defined by federal, State, or local law or ordinance, except for a bona fide occupational qualification. Without limiting the foregoing, Contractor agrees to comply with the provisions of the Affidavit of Equal Opportunity & Title VI Compliance requirements incorporated herein by this reference. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contractor setting forth the provisions of this nondiscrimination clause.

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, injuries or losses assessed for the Contractor's failure to comply with the Acts and Standards issued therein. The Contractor is also responsible for meeting all federal, State, and local 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.

### **8.10 Permits and Licenses**

The Contractor and subcontractors shall secure a City business license and pay all fees and taxes levied by the City. The Contractor shall obtain all permits, certifications, authorizations, and licenses necessary to provide the services required herein prior to the Date of Execution of this Contract 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.

### **8.11 Relationship of Parties**

The City and Contractor intend that an independent contractor relationship shall be created by 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.

### **8.12 Contractor's Relationship with Customers**

The Contractor shall not separately contract with Customers for any services covered under this Contract; however, the Contractor may negotiate separate agreements with Customers for the sole purpose of compactor leasing, payment for recyclables, or other related services only when 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 Contract. These separate agreements must be in writing and shall in no way expressly or by application supersede this Contract. The Contractor agrees these separate agreements shall not contain durations any longer than the final date of this Contract's Term. The Contractor shall provide to the City a detailed list of all such separate agreements with Customers upon the City's request. The City may, at its sole option, regulate similar or identical services in the successor to this contract.

### **8.13 Bankruptcy**

It is agreed that if an order for relief with respect to the Contractor is entered in any bankruptcy case, either voluntarily or involuntarily, in which the Contractor is a debtor, then this Contract, at the option of the City, may be terminated effective on or after the day and time the order for relief is entered.

### **8.14 Right to Renegotiate/Amend**

The City shall retain the right to renegotiate this Contract or negotiate contract amendments at its discretion or based on policy changes, State statutory changes, or County rule changes, State or federal regulations regarding issues that materially modify the terms and conditions of the Contract, including but not limited to any modifications to contracting terms or policies as they relate to County disposal services. The City may also renegotiate this Contract should any State, 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 or developments, such as those identified through a pilot program under Section 4.1.16, 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 or addendum executed by authorized representatives of the City and the Contractor.

### **8.15 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 Nature, including but not limited to landslides, lightning, forest fires, storms, floods, freezing and earthquakes, terrorism, civil disturbances, acts of the public enemy, wars, blockades, public riots, explosions, pandemics, governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the Contractor, and are not the result of the willful or negligent act, error or omission of the Contractor; and that could not have been prevented by the Contractor through the exercise of reasonable diligence ("Force Majeure"). 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 and only for the period during which the Force Majeure 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; accidents to machinery, equipment or materials; unavailability of required materials or disposal restrictions; or general economic conditions.

If as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, the Contractor shall notify the City by phone and e-mail, on or promptly after the Force Majeure is first known, followed within seven (7) Days by a written description of the event and cause thereof to the extent known; the date the event began, its estimated duration, the estimated time during which the performance of the Contractor's obligations will be delayed; the likely financial impact of the event; and whatever additional information is available concerning the event and its impact on the City and its Customers. The Contractor shall provide prompt written notice of the cessation of the Force Majeure. Whenever such event shall occur, the Contractor, as promptly and as reasonably possible, shall use its best efforts to eliminate the cause, reduce the cost, and resume performance under the Contract. In addition, if as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, the Contractor shall notify all Customers regarding the disruption in

collection service in a manner similar to the notification required in the case of inclement weather under Section 4.1.7.

### **8.16 Severability**

If any provision of this Contract shall be declared illegal, void, or unenforceable, the other provisions of the Contract shall remain in full force and effect.

### **8.17 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.

### **8.18 Incorporation of Contractor’s Proposal in Response to City’s RFP**

The Contractor’s Proposal, dated April 18, 2022 submitted in response to the City’s Request for Proposals, is fully incorporated by this 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 or attachments. In the case of conflict between the Contractor’s proposal and this Contract, the provisions of this Contract shall prevail.

### **8.19 Dispute Resolution**

The Parties shall attempt to resolve any and all disputes to the mutual satisfaction of both Parties by good faith discussions. Throughout the duration of a dispute, the Contractor shall continue providing all Services included in this Contract. Disputes not resolved in accordance with other provisions of this Contract or through good faith discussions shall be submitted to non-binding mediation before a mediator acceptable to both the City and the Contractor. All costs of mediation, including the City’s attorneys’ fees and expert witness fees, shall be paid for by the Contractor. Neither party may initiate or commence legal proceedings prior to completion of the non-binding mediation. In the event of litigation, the prevailing party in the suit shall be entitled to attorney fees.

### **8.20 Entirety**

This Contract and the exhibits affixed hereto and herein incorporated by reference represent the entire agreement between 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.

WITNESS THE EXECUTION HEREOF on the day and year first herein above written.

RECOLOGY KING COUNTY, INC.

CITY OF TUKWILA

By \_\_\_\_\_

By \_\_\_\_\_

City of Tukwila

65

August 2022

Comprehensive Garbage, Recyclables, and Compostables Collection Contract

City Manager

Approved as to Form:

By \_\_\_\_\_  
City Attorney

## **EXHIBITS**

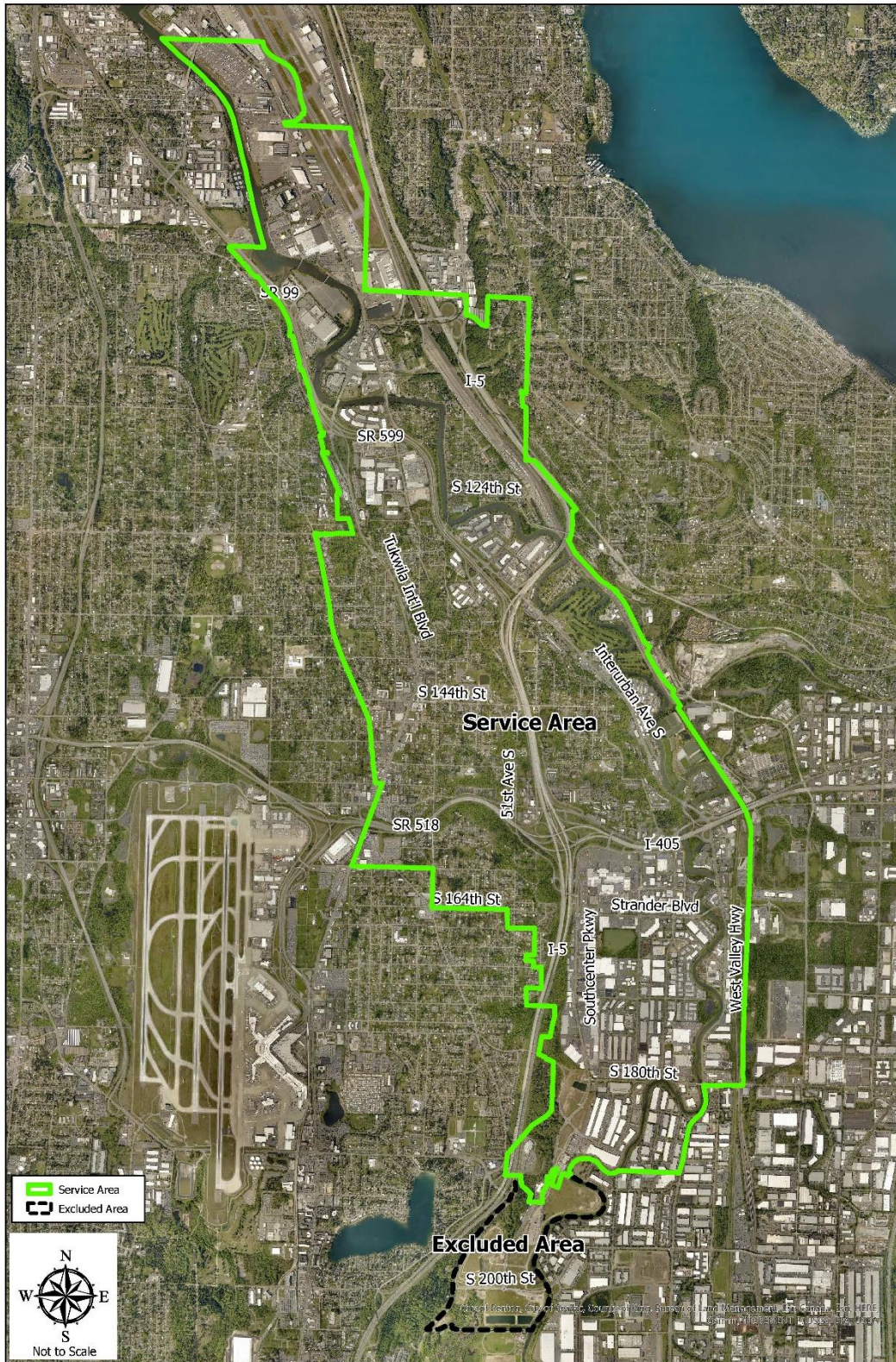
EXHIBIT A: Service Area

EXHIBIT B: Contractor Rates

EXHIBIT C: Recyclables List

EXHIBIT D: Rate Modification Examples

**EXHIBIT A**  
**Service Area**



Date: February 1, 2022  
 By: R. Linsao  
 R:\GIS-MAIN\ArcGIS-Pro\Projects\DCDY\Griffin\Solid\Waste\SolidWaste\_Exhib-A\

**Exhibit A**



**EXHIBIT B**  
**Contractor Rates**

		2023 PROPOSED SOLID WASTE RATES			
Residential Curbside Services	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	CUSTOMER RATE	FAC COMPONENT
		<b>Monthly Service:</b> Monthly 32/35 Gallon Garbage Cart	\$1.86	\$9.15	\$11.01
	<b>Weekly Service:</b> 10 Gallon Garbage Micro-Can	\$2.01	\$11.08	\$13.09	\$0.34
	20 Gallon Garbage Cart	\$4.05	\$10.18	\$14.23	\$0.67
	32/35 Gallon Garbage Cart	\$6.50	\$13.85	\$20.35	\$1.12
	45 Gallon Garbage Cart	\$9.15	\$15.10	\$24.25	\$1.68
	64 Gallon Garbage Cart	\$13.01	\$16.37	\$29.38	\$2.24
	96 Gallon Garbage Cart	\$19.55	\$18.90	\$38.45	\$3.38
	Extras (32 Gallon Equivalent)	\$1.06	\$3.94	\$5.00	-
	<b>Compostables Service:</b> 32/35 Gallon EOW Compostables Cart			\$11.59	-
	64 Gallon EOW Compostables Cart			\$11.59	-
	96 Gallon EOW Compostables Cart			\$11.59	-
	Extra Compostables Cans/Bags, 32 Gallon Equivalent (Each)			\$3.18	-
	96 Gallon Extra Compostables Cart Rental			\$1.97	-
	96 Gallon Extra Compostables Cart Rental + EOW Service			\$5.93	-
	<b>Miscellaneous Fees:</b> Recycling Cart Rental, In Excess of 2 Carts			\$1.97	-
	Return Trip (Per Pickup)			\$6.91	-
	Carry-out Charge, Per 25 ft, Per Month			\$3.94	-
	Drive-in Charge, Per Month			\$5.93	-
	Vacation Standby Fee, Per Month			\$4.94	-
	Redelivery of All Carts After Service Cancellation			\$19.77	-
On-Call Bulky Waste Collection	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	CUSTOMER RATE	FAC COMPONENT
	White Goods, Except Refrigerators		\$24.72	\$24.72	-
	Refrigerators & Freezers		\$49.45	\$49.45	-
	Sofas & Chairs	\$31.83	\$9.88	\$41.71	-
	Mattresses	\$31.83	\$9.88	\$41.71	-
	Tires	\$4.24	\$5.93	\$10.17	-
	Miscellaneous, Per Cubic Yard	\$27.58	\$3.94	\$31.52	-
MF & Commercial Carts	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	CUSTOMER RATE	FAC COMPONENT
	<b>Weekly Service:</b> 20 Gallon Garbage Cart	\$4.05	\$17.05	\$21.10	\$0.67
	32/35 Gallon Garbage Cart	\$6.50	\$22.12	\$28.62	\$1.12
	45 Gallon Garbage Cart	\$9.15	\$24.79	\$33.94	\$1.68
	64 Gallon Garbage Cart	\$13.01	\$27.45	\$40.46	\$2.25
	96 Gallon Garbage Cart	\$19.55	\$37.97	\$57.52	\$3.37
	Extra Garbage Cans/Bags, 32 Gallon Equivalent (Each)	\$1.06	\$3.94	\$5.00	-
	<b>Compostable Service:</b> 32/35 Gallon Compostables Cart			\$14.23	-
	64 Gallon Compostables Cart			\$19.91	-
	96 Gallon Compostables Cart			\$28.24	-
	<b>Miscellaneous Services:</b> Return Trip (Per Pickup)			\$6.91	-
	Carry-out Charge, Per 25 ft, Per Month			\$3.94	-
	Drive-in Charge, Per Month			\$5.93	-
	Redelivery of Carts After Service Cancellation (Up to 3 Carts)			\$19.77	-

MF & Commercial Detachable Containers (Compacted)	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	CUSTOMER RATE	FAC COMPONENT
	<b>Compacted Containers:</b>				
	1 Cubic Yard Container	\$131.58	\$511.41	\$642.99	\$20.26
	1.5 Cubic Yard Container	\$197.36	\$589.64	\$787.00	\$40.52
	2 Cubic Yard Container	\$263.17	\$668.24	\$931.41	\$60.79
	3 Cubic Yard Container	\$394.75	\$758.09	\$1,152.84	\$81.05
	4 Cubic Yard Container	\$526.34	\$847.19	\$1,373.53	\$101.32
	6 Cubic Yard Container	\$789.52	\$949.80	\$1,739.32	\$101.32
	8 Cubic Yard Container	\$1,052.73	\$1,052.47	\$2,105.20	\$121.58
MF & Commercial Detachable Containers (Loose)	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	CUSTOMER RATE	FAC COMPONENT
	<b>1 Cubic Yard Uncompacted:</b>				
	1 Pickup/Week/Container	\$37.58	\$107.65	\$145.23	\$6.75
	2 Pickups/Week/Container	\$75.16	\$215.52	\$290.68	\$13.50
	3 Pickups/Week/Container	\$112.76	\$323.29	\$436.05	\$20.26
	4 Pickups/Week/Container	\$150.37	\$431.21	\$581.58	\$27.01
	5 Pickups/Week/Container	\$187.97	\$538.92	\$726.89	\$33.77
<b>1.25/1.5 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$56.37	\$138.91	\$195.28	\$10.13
	2 Pickups/Week/Container	\$112.76	\$277.93	\$390.69	\$20.26
	3 Pickups/Week/Container	\$169.17	\$416.95	\$586.12	\$30.39
	4 Pickups/Week/Container	\$225.58	\$555.99	\$781.57	\$40.52
	5 Pickups/Week/Container	\$281.96	\$695.04	\$977.00	\$50.66
<b>2 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$75.16	\$153.97	\$229.13	\$13.50
	2 Pickups/Week/Container	\$150.37	\$308.20	\$458.57	\$27.01
	3 Pickups/Week/Container	\$225.58	\$462.34	\$687.92	\$40.52
	4 Pickups/Week/Container	\$300.75	\$616.55	\$917.30	\$54.03
	5 Pickups/Week/Container	\$375.97	\$770.71	\$1,146.68	\$67.54
<b>3 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$112.76	\$205.18	\$317.94	\$20.26
	2 Pickups/Week/Container	\$225.58	\$410.53	\$636.11	\$40.52
	3 Pickups/Week/Container	\$338.34	\$615.98	\$954.32	\$60.79
	4 Pickups/Week/Container	\$451.17	\$821.32	\$1,272.49	\$81.05
	5 Pickups/Week/Container	\$563.95	\$1,026.69	\$1,590.64	\$101.32
<b>4 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$150.37	\$257.25	\$407.62	\$27.01
	2 Pickups/Week/Container	\$300.75	\$514.57	\$815.32	\$54.03
	3 Pickups/Week/Container	\$451.17	\$771.95	\$1,223.12	\$81.05
	4 Pickups/Week/Container	\$601.54	\$1,029.33	\$1,630.87	\$108.07
	5 Pickups/Week/Container	\$751.93	\$1,286.73	\$2,038.66	\$135.09
<b>6 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$225.58	\$327.01	\$552.59	\$40.52
	2 Pickups/Week/Container	\$451.17	\$654.25	\$1,105.42	\$81.05
	3 Pickups/Week/Container	\$676.76	\$981.30	\$1,658.06	\$121.58
	4 Pickups/Week/Container	\$902.34	\$1,308.59	\$2,210.93	\$162.11
	5 Pickups/Week/Container	\$1,127.93	\$1,635.64	\$2,763.57	\$202.64
<b>8 Cubic Yard Uncompacted:</b>					
	1 Pickup/Week/Container	\$300.75	\$412.98	\$713.73	\$54.03
	2 Pickups/Week/Container	\$601.54	\$826.17	\$1,427.71	\$108.07
	3 Pickups/Week/Container	\$902.34	\$1,239.29	\$2,141.63	\$162.11
	4 Pickups/Week/Container	\$1,203.12	\$1,652.44	\$2,855.56	\$216.15
	5 Pickups/Week/Container	\$1,503.91	\$2,065.56	\$3,569.47	\$270.19
<b>Extra Garbage:</b>					
	Extra Loose Garbage in Container, 32 Gallon Equivalent	\$1.06	\$1.97	\$3.03	-
	Extra Loose Garbage on Ground, 32 Gallon Equivalent	\$1.06	\$3.94	\$5.00	-
<b>Miscellaneous Services:</b>					
	Return Trip (Per Pickup)			\$9.88	-
	Container Roll-out, Over 25 Feet (Per 10 Feet, Per Pickup)			\$4.94	-



MF & Commercial Drop Box Hauling	SERVICE LEVEL			HAUL CHARGE	FAC COMPONENT
	<b>Non-compacted Service:</b>				
	10 Cubic Yard Container			\$232.47	\$15.60
	15 Cubic Yard Container			\$232.47	\$23.40
	20 Cubic Yard Container			\$232.47	\$31.20
	25 Cubic Yard Container			\$232.47	\$39.00
	30 Cubic Yard Container			\$232.47	\$46.80
	40 Cubic Yard Container			\$232.47	\$62.40
	<b>Compacted Service:</b>				
	10 Cubic Yard Container			\$232.47	\$46.80
	15 Cubic Yard Container			\$232.47	\$70.20
	20 Cubic Yard Container			\$232.47	\$93.60
	25 Cubic Yard Container			\$232.47	\$117.00
	30 Cubic Yard Container			\$232.47	\$140.40
	40 Cubic Yard Container			\$232.47	\$187.20
Temporary Container Hauling	SERVICE LEVEL	TIPPING FEE COMPONENT	SERVICE COMPONENT	HAUL CHARGE	FAC COMPONENT
	<b>Temporary Collection Hauling:</b>				
	2 Cubic Yard Detachable Container	\$19.70	\$54.33	\$74.03	-
	4 Cubic Yard Detachable Container	\$39.39	\$72.44	\$111.83	-
	6 Cubic Yard Detachable Container	\$59.11	\$92.48	\$151.59	-
	8 Cubic Yard Detachable Container	\$78.80	\$117.08	\$195.88	-
	Non-compacted 10-40 Cubic Yard Drop-box			\$232.47	-
Drop-box Container Rental & Delivery	SERVICE LEVEL	DAILY RENT	MONTHLY RENT	DELIVERY CHARGE	FAC COMPONENT
	<b>Detachable Temporary Container:</b>				
	2 Cubic Yard Detachable Container	\$133.14	\$61.85	\$2.03	-
	4 Cubic Yard Detachable Container	\$133.14	\$123.71	\$4.06	-
	6 Cubic Yard Detachable Container	\$133.14	\$152.72	\$5.02	-
	8 Cubic Yard Detachable Container	\$133.14	\$168.92	\$5.54	-
	<b>Non-compacted Regular &amp; Temporary Service:</b>				
	Non-compacted 10 Cubic Yard Drop-box	\$133.14	\$133.50	\$6.53	-
	Non-compacted 15 Cubic Yard Drop-box	\$133.14	\$146.13	\$7.10	-
	Non-compacted 20 Cubic Yard Drop-box	\$133.14	\$153.43	\$7.40	-
	Non-compacted 25 Cubic Yard Drop-box	\$133.14	\$173.31	\$8.36	-
	Non-compacted 30 Cubic Yard Drop-box	\$133.14	\$186.85	\$9.03	-
	Non-compacted 40 Cubic Yard Drop-box	\$133.14	\$223.64	\$10.71	-
	<b>Miscellaneous Fees:</b>			<b>SERVICE FEE</b>	
	Additional Mileage Charge for Hauls to Other Sites (Per One Way Mile)			\$2.96	-
	Return Trip (Per Pickup)			\$14.83	-
	Stand-by Time (Per Minute)			\$1.47	-
	Drop-box Turn Around Charge			\$14.83	-
	Solid Drop-box Lid Charge (Per Month)			\$27.69	-
Event Services	SERVICE LEVEL			CUSTOMER RATE	
	Delivery, Provision, Collection of a Set of 3 Carts (G, R & C)			\$30.53	-
Hourly Rates	SERVICE LEVEL			CUSTOMER RATE	
	<b>Hourly Rates:</b>				
	Rear/Side Load Packer & Driver			\$148.38	-
	Front Load Packer & Driver			\$148.38	-
	Drop Box Truck & Driver			\$148.38	-
	Additional Labor (Per Person)			\$79.13	-
Miscellaneous Fees	SERVICE LEVEL			RATE PER EVENT	
	Container Cleaning - Carts			\$9.88	-
	Container Cleaning - Detachable Containers			\$29.67	-
	Re-line with Compostable Cart Liner			\$4.94	-
Drop-box Disposal	Drop-box Disposal with Mark-up (Per Ton)			\$154.29	-

**EXHIBIT C**  
**Recyclable Materials to be Collected**

<b>Recyclable Item</b>	<b>Customer Preparation Instructions</b>	<b>Limitations</b>
<b>Aluminum &amp; Tin</b> – All food and beverage cans, trays, pie tins, and food containers.	Empty, clean, secure lids and place in Recycling Container.	Food and beverage containers must be empty and clean.
<b>Corrugated Cardboard</b> – All corrugated cardboard boxes.	Flatten corrugated cardboard boxes and placed in or next to Recycling Container.	No larger than 3' x 3' in size, larger boxes shall be cut down to size.
<b>Glass Containers</b> – All colored or clear glass jars and bottles.	Empty, clean, remove lids, and place in Recycling Container.	Food and beverage containers must be empty and clean.
<b>Paper</b> – All mixed paper, colored paper, magazines, phone books, catalogues, and advertising supplements.	Place clean, dry paper in Recycling Container.	All paper must be clean.
<b>Plastic Containers</b> – All colors of plastic bottles, jugs, and tubs.	Empty, clean, remove lids, and place in Recycling Container.	Food and beverage containers must be empty and clean. Plastic bottles, jugs, tubs or containers that have hazardous or toxic products, such as motor oil or pesticides are excluded.
<b>Scrap Metal</b> – All ferrous and non-ferrous scrap metal. Free of wood, rubber, and other contaminants.	Small items: Place in Recycling Container or secure (e.g. bundle or box) next to Recycling Container. Large items: Call to request pickup at least twenty-four (24) hours before regular service day.	Small items: Less than two feet (2') by two feet (2') and thirty-five (35) lbs. Less than five percent (5%) non-metal parts. Large items: Larger than two feet (2') by two feet (2'). Call to request pick-up. <b>Residential only.</b>
<b>Used Motor Oil</b> – Pure motor oil.	Seal uncontaminated motor oil (no large solids) in clean, clear, screw-top plastic jugs. Label jugs with name and address and place next to Recycling Cart.	Limit three (3) gallons per pick-up and ten (10) gallons per year. <b>Residential only.</b>
<b>Used Cooking Oil</b> – Pure liquid cooking oil of all types (vegetable, canola, etc.).	Seal uncontaminated cooking oil (no large solids) in clean, clear, screw-top plastic jugs. Label jugs with name and address and place next to Recycling Cart.	Limit three (3) gallons per pick-up and ten (10) gallons per year. <b>Residential only.</b>

**EXHIBIT D**  
**Rate Modification Examples**

The Customer charges in Exhibit B shall be adjusted annually and are comprised of three separate components: the Service component, Tipping Fee component, and Fixed Annual Charge component. The Service component and Tipping Fee component shall produce the Customer rate and the Fixed Annual Charge shall be listed separately. The Customer charges shall also be adjusted if there is a change to the City’s Administrative Fee or Washington State excise tax or any other adjustment to compensation made pursuant to Article 5 of the Contract.

**Service component.** The service component of the Customer charges shall be adjusted annually to reflect the CPI change as described below. The City’s Administrative Fee is embedded in the service component of the rate.

**Tipping Fee component.** The Tipping Fee component of the Customer charges shall be adjusted by the percentage increase or decrease in the County Tipping Fee. Any increase or decrease shall not become effective until the new Tipping Fee becomes effective and are actually charged to the Contractor. The City’s Administrative Fee plus excise tax on the Administrative Fee is embedded in the Tipping Fee component of the rate.

**Fixed Annual Charge component.** The Fixed Annual Charge component of the Customer charges shall be applied to all regular Garbage services and Garbage Drop-box services. The amount of each year’s Fixed Annual Charge is to be provided by the County to the City and Contractor no later than September 1st of the year preceding in which the Fixed Annual Charge is to take effect. This new Fixed Annual Charge shall be adjusted by adding or subtracting, as appropriate, any underpayment or overpayment collected from Customers from the prior calendar year. This component shall be calculated annually as a proportion of monthly Container volume for the current Customer counts. The City’s Administrative Fee plus excise tax on the Administrative Fee is embedded in the Fixed Annual Charge component of the rate annually.

Formulas for adjustments of the service component, Tipping fee component, and Fixed Annual Charge component are provided below. Adjustments to the Contractor’s disposal fees and charges on rates shall be made in units of one cent (\$0.01).

For example, assuming that as of January 1, 2024, a 32/35-gallon Cart has a Customer rate of \$21.24 per month where \$6.70 is the Tipping Fee component and \$14.54 is the Service component. \$1.13 is the Fixed Annual Charge component including the Administrative Fee and excise tax on the Administrative Fee. The current Tipping Fee is \$135.64 and increases to \$140.00 per ton starting on January 1, 2025. The new County Fixed Annual Charge is \$950,000 with \$10,000 previously overpaid by Customers to the Contractor. Currently there are 629,399 cubic yards of garbage calculated from current Customer counts. The previous CPI is 100.0 and the new CPI is 105.0. The current City Administrative Fee is 6.0% and the Washington State excise tax is 1.75%.

Symbol	Current Customer Rate Description	Example	Calculation
TFC <sub>OLD</sub>	Current Tipping Fee Component of Customer Rate	\$6.70	-
SC <sub>OLD</sub>	Current Service Component of Customer Rate	\$14.54	-
CR <sub>OLD</sub>	Current Customer Rate	\$21.24	= TFC <sub>OLD</sub> + SC <sub>OLD</sub>

Symbol	Tipping Fee Component Description	Example	Calculation
TF <sub>OLD</sub>	Current King County Garbage Tipping Fee	\$135.64	-
TF <sub>NEW</sub>	New King County Garbage Tipping Fee	\$140.00	-
TF%	Garbage Tipping Fee Adjustment	3.21%	$= (TF_{NEW} - TF_{OLD}) / TF_{OLD}$

Symbol	Service Component Description	Value	Calculation
CPI <sub>OLD</sub>	Previous CPI	100.0	-
CPI <sub>NEW</sub>	Current CPI	105.0	-
CPI%	CPI Adjustment	5.0%	$= (CPI_{NEW} - CPI_{OLD}) / CPI_{OLD}$

Symbol	New Customer Rate Description	Example	Calculation
TFC <sub>NEW</sub>	New Tipping Fee Component of Customer Rate	\$6.91	$= TFC_{OLD} * (1 + TF\%)$
SC <sub>NEW</sub>	New Service Component of Customer Rate	\$15.26	$= SC_{OLD} * (1 + CPI\%)$
CR <sub>NEW</sub>	New Customer Rate	\$22.17	$= TFC_{NEW} + SC_{NEW}$

Symbol	Fixed Annual Charge Description	Example	Calculation
FAC <sub>OLD</sub>	Current County Fixed Annual Charge (FAC)	\$927,523	FAC for Current Year
FAC <sub>AGG</sub>	Previous Aggregate FAC Components	\$937,523	$= \sum$ Previous Years' FAC Components (Without Admin Fee or Excise Tax on Admin Fee)
FAC <sub>O/U</sub>	FAC Overpayment/Underpayment from prior year	\$10,000	$= FAC_{AGG} - FAC_{OLD}$
FAC <sub>NEW</sub>	New County FAC	\$950,000	-
FAC <sub>TRG</sub>	New Target FAC	\$940,000	$= FAC_{NEW} - FAC_{O/U}$

Symbol	Fixed Annual Charge Component Description	Example	Calculation
GV	Annual Garbage Container Volume (Cubic Yards)	629,399	$= \sum$ (Monthly Garbage Container Volume) * 12
FAC <sub>GV</sub>	Monthly Target FAC per Cubic Yard of Garbage (with Admin Fee and Excise Tax on Admin Fee)	\$1.58	$= (FAC_{TRG} / GV) * (1 + FF + (FF * ET))$
FAC <sub>NEW</sub>	New Fixed Annual Charge Component	\$1.13	$=$ (Monthly Garbage Container Volume) * FAC <sub>GV</sub>

	Tax & Fee Elements	Value	Calculation
FF	Current City Administrative Fee	6.0%	-
ET	Current Excise Tax	1.75%	-

Based upon the calculations above, the new Customer rate as of January 1, 2025 for one 32/35-gallon Cart is \$22.17 per month where \$6.91 is the Tipping Fee component and \$15.26 is the service component. The Fixed Annual Charge component is \$1.13.



## INFORMATIONAL MEMORANDUM

**TO: Transportation and Infrastructure Services Committee**  
**FROM: Hari Ponnekanti, Public Works Director/ City Engineer**  
**BY: Mike Perfetti, Surface Water Sr. Program Manager**  
**CC: Mayor Ekberg**  
**DATE: August 12, 2022**  
**SUBJECT: Surface Water Fund – Duwamish Basin Stewardship Interlocal Agreement**

### **ISSUE**

To authorize the mayor to sign an interlocal agreement supporting a new Duwamish Basin Steward position.

### **BACKGROUND**

King County’s Basin Stewards are a team of professionals knowledgeable about community and natural resources in specific King County watersheds. They work with communities to steward natural resources, protect, and restore habitat, and coordinate volunteer efforts. Community organizations have long lobbied King County to create a steward position for the Duwamish River. Since this item was presented to this committee on November 8, 2021, for discussion, the partners – the cities of Tukwila and Seattle, King County, and the Port of Seattle - have developed the attached Interlocal Agreement (ILA), which defines how decisions are made, cost share and other details related managing the position. The ILA is in effect until December 31, 2026, and can be extended by partner agreement.

### **DISCUSSION**

The Duwamish Basin Steward will work to develop and implement Chinook salmon habitat restoration projects in the Duwamish River in coordination with local jurisdictions, tribes, landowners, agencies, and non-profit partners. The position will support efforts to acquire property (fee or easement) and restore shallow water rearing habitat, leveraging available funding to maximize the environmental benefits. The steward will serve to coordinate partners and add to partner capacity toward common goals, communicate to the public about salmon recovery, and serve as a point person for Duwamish projects and planning efforts. The steward will work to ensure the interests of underserved communities within the Duwamish basin are represented in conservation and habitat restoration projects.

### **FISCAL IMPACT**

Tukwila’s cost share of the Duwamish Basin Steward position, shown in Exhibit B of the ILA, is 12%. For 2022, Tukwila’s contribution will be \$26,000. Costs will be adjusted annually for inflation using the Consumer Price Index. Tukwila’s annual contribution will be delivered from Surface Water Funds.

### **RECOMMENDATION**

Council is being asked to approve the ILA for Duwamish Basin Stewardship and consider this item on the Consent Agenda at the August 22, 2022, Special Council Meeting.

**Attachment:** Interlocal Agreement for Duwamish Basin Stewardship

## INTERLOCAL AGREEMENT

For Duwamish Basin Stewardship

### PREAMBLE

**THIS AGREEMENT** ("Agreement") is entered into pursuant to Chapter 39.34 Revised Code of Washington ("RCW") by King County, The City of Seattle represented by Seattle Public Utilities Department, the City of Tukwila, and the Port of Seattle (individually a "Party" and collectively the "Parties");

**WHEREAS**, Chapter 39.34 RCW authorizes government entities to contract to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform;

**WHEREAS**, Puget Sound Chinook salmon and bull trout were listed as threatened under the Endangered Species Act ("ESA") in 1999, the steelhead trout were listed as threatened under ESA in 2007, and the Southern Resident Orca were listed as endangered in 2005;

**WHEREAS**, the Parties recognize and respect the present-day and historical importance of the watershed and its resources to tribal culture, economy and customs;

**WHEREAS**, the Parties recognize and value the present-day and historical connection of its cities and unincorporated communities to the rivers, lakes and other natural resources of the watersheds;

**WHEREAS**, the Parties are committed to ensuring that community interests, particularly those of the underserved communities, within the **Duwamish Service Area** are represented in conservation and habitat restoration actions;

**WHEREAS**, the Parties recognize the need to support economic vitality and environmental stewardship within and around the Duwamish valley industrial complex;

**WHEREAS**, the Parties recognize their participation in the Green-Duwamish Watershed Ecosystem Forum ("WRIA 9 Forum") and efforts to implement the Green-Duwamish & Central Puget Sound Salmon Recovery Plan ("WRIA 9 Plan") and the applicable portions near Skyway of the Lake Washington/Cedar/Sammamish Watershed Chinook Salmon Conservation Plan ("WRIA 8 Plan") demonstrates a commitment to work proactively and cooperatively to address the ESA listings;

**WHEREAS**, the Parties share interests in and responsibility for addressing long-term watershed planning and conservation for the Duwamish Sub-watershed and within the unincorporated King County areas of North Highline and Skyway (jointly, the "**Duwamish Service Area**") for the purposes of implementing the WRIA 9 Plan and the applicable portions near Skyway of WRIA 8 Plan;

**WHEREAS**, the Parties recognize their participation in the efforts to implement the WRIA 8 and 9 Plans demonstrates a commitment to work proactively and cooperatively to address the ESA listings;

**WHEREAS**, the Parties recognize achieving salmon recovery and watershed health goals requires a commitment to, and acceleration of, the collaborative implementation of salmon and watershed conservation actions;

**WHEREAS**, the Parties recognize the value of stewardship or watershed stewards and have a shared goal to bring stewardship capacity to the **Duwamish Service Area** focused on land conservation and habitat restoration, community engagement and partner coordination, as well as improved environmental sustainability of the Duwamish Valley industrial complex along the river's shorelines;

**WHEREAS**, the Parties have an interest in developing and implementing Chinook salmon habitat restoration projects, conserving open space, and working with community organizations and private businesses to promote creative solutions for stormwater management, floodplain restoration, riparian restoration, climate adaptation, and other similar environmental activities in the **Duwamish Service Area**;

**WHEREAS**, in addition to the salmon plans, numerous other studies and planning efforts serve to inform stewardship in the **Duwamish Service Area**, including, but not limited to, the Duwamish Blueprint, WRIA 9; Re-Green the Green Revegetation Strategy, WRIA 9; Duwamish Valley Action Plan, City of Seattle; Lower Duwamish Waterway Group efforts; Lower Duwamish River Habitat Restoration Plan, Port of Seattle; Lower Duwamish River NRDA Restoration Plan, NOAA; Our Green/Duwamish Implementation Plan; RainWise and stormwater retrofit efforts, King County and City of Seattle; North Highline (White Center) Subarea Plan, King County Local Services; King County Land Conservation Initiative, Strategic Climate Action Plan, and the Clean Water and Healthy Habitat Strategic Plan;

**WHEREAS**, the Parties support implementation of the Puget Sound Partnership Action Agenda to restore the health of the Puget Sound as it relates to salmon recovery and watershed health;

**WHEREAS**, the Port has a Century Agenda goal to create, restore or enhance forty additional acres of habitat in the Green-Duwamish Watershed and Elliott Bay, as per the Motion of the Port of Seattle Commission dated December 4, 2012, and also has a mitigation bank focused on habitat restoration sites within King County; and

**WHEREAS**, the Parties agree that a dedicated position for a Duwamish Basin Steward will support collaboration and advance restoration efforts with communities in the **Duwamish Service Area**.

**NOW, THEREFORE**, in exchange for the consideration described in this Agreement, the Parties hereto do mutually covenant and agree as follows:

## MUTUAL CONVENANTS AND AGREEMENTS

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meaning provided for below:

- 1.1 **DUWAMISH BASIN MANAGEMENT TEAM ("DBMT"):** The **DBMT**, created herein, is the guiding body responsible for directing, coordinating, and adapting stewardship actions in the **Duwamish Service Area** and is comprised of designated representatives of eligible governments who have authorized the execution of and become Parties to this Agreement.

- 1.2 **DUWAMISH SERVICE AREA:** The **Duwamish Service Area** is depicted in Exhibit C, attached herein and incorporated by reference. The **Duwamish Service Area** comprises of the Duwamish Sub-watershed, as defined in the WRIA 9 Plan, as well as the two unincorporated urban areas that overlap in part with the Duwamish Sub-watershed. To the west, the **Duwamish Service Area** includes the North Highline unincorporated area located between Seattle and Burien, including Glendale. To the east, the **Duwamish Service Area** includes the Skyway unincorporated area bounded by Seattle, Tukwila, and Renton, and extending to Lake Washington to include Bryn Mawr,

2. **PURPOSES.** The purposes of this Agreement include the following:

- 2.1 This Agreement between King County and the other Parties to this Agreement states the terms under which King County, through its Water and Land Resources Division, will provide Basin Stewardship services in the **Duwamish Service Area**. The services to be provided are described in **Exhibit A**, attached to this Agreement and incorporated herein and made a part hereof.

- 2.2 To provide a mechanism for securing technical assistance and funding from federal and state agencies and other sources.

It is not the purpose or intent of this Agreement to create, supplant, preempt or supersede the authority or role of any jurisdiction, governmental entity or natural resource policy body.

3. **EFFECTIVE DATE AND TERM.** This Agreement shall become effective once it has been authorized by the governing bodies of all Parties and each Party has executed this Agreement. Once effective, this Agreement shall remain in effect until December 31, 2026; provided, however, that this Agreement may be extended as the DBMT representatives of



all Parties may agree to in writing, with such extension being effective upon its execution by each of the Parties. Such extension shall bind only those Parties executing the extension.

4. **DUWAMISH STEWARDSHIP MANAGEMENT**

The Parties to this Agreement hereby establish a **DBMT** to manage the Duwamish Basin Stewardship program (“Duwamish Program”) for carrying out the purposes of this Agreement.

- 4.1 Each Party to this Agreement shall appoint one (1) representative to serve on the **DBMT**. **DBMT** representatives should be authorized to make prudent stewardship and programmatic decisions on behalf of the Parties.
- 4.2 The **DBMT** will meet at least four times per calendar year, and more frequently if the **DBMT** determines it necessary, to review Duwamish Program workplan progress, as well as partnerships that would benefit the Program, including potential funding. Each year, prior to October 1, the **DBMT** shall develop a draft work program and budget for consideration by the **DBMT** for the following calendar year.
- 4.3 King County will perform day-to-day project management and direction and communicate with other **DBMT** participants as needed to conduct Duwamish Program activities.
- 4.4 King County will schedule, facilitate, and provide summaries of all **DBMT** meetings to each Party during implementation of the Duwamish Program.
- 4.5 The **DBMT** will strive to make decisions unanimously, considering input from subject matter experts when mutually agreed upon. Each participant agrees to use its best efforts and exercise good faith in consensus decision-making. If unanimity cannot be reached, decisions will be made by majority constituted by no less than seventy-five (75) percent of the voting participants in the **DBMT**. Each Party to this Agreement shall have one vote in those circumstances.
- 4.6 If any dispute arises between the Parties related to program decisions, the Parties agree to seek to resolve the dispute informally through a meeting between a designee of the respective Parties before taking any action including, but not limited to, termination of this Agreement.
- 4.7 King County, on behalf of the **DBMT**, may contract with consultants, community partner organizations, or any other entities for any lawful purpose related hereto.
- 4.8 The **DBMT** shall adopt rules and procedures that are consistent with its purposes as stated herein and are necessary for its operation.

5. **OBLIGATIONS OF PARTIES; BUDGET; RULES.**

- 5.1 Each Party shall be responsible for meeting only its individual obligations hereunder and as established in the annual budget adopted by the **DBMT** under this Agreement, including all such obligations related to the **DBMT** funding, technical support, and participation in related planning, and activities as set forth herein. It is anticipated that separate actions by the legislative bodies of the Parties will be necessary from time to time in order to carry out these obligations.
- 5.2 The **DBMT** shall, by October 1 of each year, establish an annual budget that provides for the level of funding and total resource obligations of the Parties for the following calendar year. Such obligations are to be allocated on a proportional basis in accordance with the initial allocation formula for 2022 set forth in **Exhibit B**. The **Exhibit B** data shall be updated by King County every year, with automatic adjustments for inflation, based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If an additional government becomes party to this Agreement, the additional government's initial cost share shall be determined jointly by the Parties and will be included in **Exhibit B**. Parties to this Agreement may elect to secure grant funding to meet their individual obligations.
- 5.3 By November 1 of each year, the Parties shall provide a status update on their continued participation in this Agreement for the following year.
- 5.4 The **DBMT** will work collaboratively to identify and secure additional, regular funding for the Duwamish Basin Steward position, as described in Section 5.4.2 below, and the Duwamish Program, and set priorities for which entity(ies) pursue which grants for what purpose. The allocation of these funds to support the position and/or the work program shall be determined by the **DBMT**, subject to any conditions attached to such funding. Parties to this Agreement may also elect to secure grant funding to meet their individual obligations.
- 5.5 King County shall:
- 5.5.1 provide services as described in **Exhibit A**;
  - 5.5.2 Hire and maintain a full-time Duwamish Basin Steward to lead delivery of services described in Exhibit A and assist the **DBMT**;
  - 5.5.3 work with representatives of the other Parties to coordinate provision of services, as described in **Exhibit A**;
  - 5.5.4 designate one representative to serve on the **DBMT** and participate in **DBMT** meetings to carry out **DBMT** responsibilities in Section 4;
  - 5.5.5 maintain the budget established by the **DBMT** consistent with RCW 39.34;
- and

- 5.5.6 pay a portion of the costs associated with its delivery of services on a proportional basis, as described in **Exhibit B**.
  - 5.6 Each other Party to this Agreement shall:
    - 5.6.1 work with King County staff to coordinate provision of services, as described in **Exhibit A** and as otherwise needed;
    - 5.6.2 designate one representative to serve on the **DBMT** and participate in **DBMT** meetings to carry out **DBMT** responsibilities in Section 4; and
    - 5.6.3 pay for services as described below and in **Exhibit B**.
  - 5.7 The **DBMT** shall oversee the expenditure of budgeted funds and allocate the utilization of resources contributed by each Party or obtained from other sources in accordance with the approved annual work program.
  - 5.8 Funds collected from the Parties or other sources on behalf of the **DBMT** shall be maintained in a special fund by King County as *ex officio* treasurer on behalf of the **DBMT**, pursuant to rules and procedures established and agreed to by the **DBMT** and King County. Such rules and procedures shall set out billing practices and collection procedures and any other procedures as may be necessary to provide for its efficient administration and operation.
  - 5.9 Costs and Billing
    - 5.9.1 Parties agree to pay the costs as set out in **Exhibit B** within sixty (60) days of receipt of invoice.
    - 5.9.2 King County will bill the Parties for their shares of service costs for the current calendar year on an annual basis by no later than September 1st.
  - 5.10 Parties may inspect and shall provide access to all relevant records that are maintained by the Parties and/or **DBMT** in connection with this Agreement.
6. **LATECOMERS**. Governments located in King County, lying wholly or partially within the Duwamish Service Area, which have not become a Party to this Agreement within twelve (12) months of the effective date of this Agreement may become a Party by obtaining written consent of all participants of the **DBMT**. The participants of the **DBMT** and any governments seeking to become a Party shall jointly determine the terms and conditions under which the government may become a Party, which shall include payment by such government to King County, of the amount of moneys constituting the government's fair and proportionate share of all prospective costs as determined by the Parties and set out in **Exhibit B**. Any government that becomes a Party pursuant to this section shall thereby assume the same general rights and responsibilities as all other Parties to this Agreement, including participation in the **DBMT** as described in Section 5.

7. **Notice**

Any notice required to be given under this Agreement will be directed to the Party at the address below. Notice will be considered effective upon receipt or twenty-four hours after mailing, whichever is earlier.

**King County:**

Department of Natural Resources and  
Parks  
Water and Land Resources Division  
201 S. Jackson St., Suite 600  
Seattle, WA 98104

Attn: Janne Kaje  
Email: [janne.kaje@kingcounty.gov](mailto:janne.kaje@kingcounty.gov)

**The City of Seattle:**

City of Seattle  
Seattle Public Utilities  
Government Relations and Legislative  
Affairs Division  
P.O. Box 34018  
Seattle, WA 98124-5177

Attn: Martha Neuman  
Email: [Martha.neuman@seattle.gov](mailto:Martha.neuman@seattle.gov)

**City of Tukwila:**

Tukwila City Administrator  
6200 Southcenter Boulevard  
Tukwila, WA 98188-2544

Attn: Mike Perfetti  
Email: [mike.perfetti@tukwilawa.gov](mailto:mike.perfetti@tukwilawa.gov)

**Port of Seattle:**

Port of Seattle  
Maritime Environment & Sustainability  
PO Box 1209  
Seattle, WA 98111

Attn: Kathleen Hurley  
Email: [Hurley.K@portseattle.org](mailto:Hurley.K@portseattle.org)

8. **TERMINATION.** Termination can only occur on an annual basis, beginning on January 1 of each calendar year, and then only if the terminating Party, through action of its governing body, provides written notice of its intent to terminate at least forty-five (45) days prior to January 1. The terminating Party shall remain fully responsible for meeting all of its obligations, under this Agreement, through the end of the calendar year in which such notice is given, together with any other costs that may have been incurred on behalf of such terminating Party up to the effective date of such termination. The Parties choosing not to exercise the right of termination shall each remain obligated to meet their respective share of the obligations of the **DBMT** as reflected in **Exhibit B**.

This Agreement may be terminated in its entirety at any time by the written agreement of all Parties.

9. **HOLD HARMLESS AND INDEMNIFICATION.** To the extent permitted by state and federal law, and for the limited purposes set forth in this Agreement, each Party shall protect, defend, hold harmless and indemnify the other Parties, their officers, elected officials, agents and employees, while acting within the scope of their employment as such, from and against any and all claims (including demands, suits, penalties, liabilities, damages, costs, expenses, or losses of any kind or nature whatsoever) arising out of or in

any way resulting from such Party's own negligent acts or omissions related to such Party's participation and obligations under this Agreement. Each Party to this Agreement agrees that its obligations under this subsection extend to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose only, each Party, by mutual negotiation, hereby waives, with respect to the other Parties only, any immunity that would otherwise be available against such claims under the industrial insurance act provisions of Title 51 RCW. In the event that any Party incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this Section, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability. The provisions of this Section shall survive and continue to be applicable to Parties exercising the right of termination pursuant to Section 8.

10. **NO ASSUMPTION OF LIABILITY.** In no event do the Parties to this Agreement intend to assume any responsibility, risk, or liability of any other Party to this Agreement or otherwise with regard to any Party's duties, responsibilities, or liabilities under the ESA, or any other act, statute, regulation, or ordinance of any local municipality or government, the State of Washington, or the United States.
11. **VOLUNTARY AGREEMENT.** This Agreement is voluntary and is acknowledged and agreed that no Party is committing to adopt or implement any actions or recommendations that may be contained in the WRIA 8 and 9 Plans or other plans that inform stewardship in the **Duwamish Service Area.**
12. **NO PRECLUSION OF ACTIVITIES OR PROJECTS.** Nothing herein shall preclude any one or more of the Parties from choosing or agreeing to fund or implement any work, activities or projects associated with any of the purposes hereunder by separate agreement or action, provided that any such decision or agreement shall not impose any funding, participation, or other obligation of any kind on any Party to this Agreement which is not a party to such decision or agreement.
13. **NO THIRD PARTY RIGHTS.** Nothing contained in this Agreement is intended to, nor shall it be construed to, create any rights in any third party, including without limitation the WRIA 8 Salmon Recovery Council or WRIA 9 Watershed Ecosystem Forum, National Oceanic and Atmospheric Administration - Fisheries, United States Fish and Wildlife Service, any agency or department of the United States, or, the State of Washington, or to form the

basis for any liability on the part of the **DBMT** or any of the Parties, or their officers, elected officials, agents and employees, to any third party.

- 14. **AMENDMENTS.** This Agreement may be amended, altered or clarified only by the unanimous, written consent of the Parties to this Agreement, and requires authorization and approval by each Party's governing body.
  
- 15. **COUNTERPARTS.** This Agreement may be executed in counterparts.
  
- 16. **APPROVAL BY PARTIES' GOVERNING BODIES.** This Agreement has been authorized and approved for execution by each Party's governing body.
  
- 17. **ENTIRE AGREEMENT.** This Agreement contains the entire Agreement among the Parties, and supersedes all prior negotiations, representations, and agreements, oral or otherwise, regarding the specific terms of this Agreement.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Agreement on the dates indicated below:

THE CITY OF SEATTLE:

PORT OF SEATTLE

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

KING COUNTY

CITY OF TUKWILA

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit A: 2022 Duwamish River Basin Steward Work Plan**

Program Element	Actions/ Deliverables	Est. percentage of work plan
<p><b>Partner Coordination</b> Coordinate with diverse partners to achieve commons goals within the basin.</p>	<ul style="list-style-type: none"> <li>• Attend regular WRIA 9 Implementation Technical Committee (ITC) and Watershed Ecosystem Forum meetings</li> <li>• Coordinate with salmon recovery partners, including WRIA 9, King County, City of Seattle, Port of Seattle, and City of Tukwila on activities within the basin</li> <li>• Build relationships with Duwamish Basin partners working on habitat restoration and recovery (e.g., Duwamish Alive Coalition, Duwamish River Community Coalition, Duwamish Tribe, Puget Soundkeeper)</li> <li>• Track and stay connected to Duwamish-specific programs, plans, and initiatives, attending meetings and relaying information to partners (e.g., Seattle Duwamish Valley Program, Duwamish Resilience District, clean-up efforts).</li> <li>• Participate in quarterly Green-Duwamish Revegetation meetings</li> </ul>	<p><b>40%</b></p>
<p><b>Habitat Protection &amp; Enhancement</b> Identify, prioritize, fundraise, and support implementation of priority acquisition and habitat projects, including for water quality, within the basin.</p>	<ul style="list-style-type: none"> <li>• Identify and support implementation of habitat restoration and green infrastructure opportunities, including urban tree canopy enhancement, in partnership with salmon recovery and community partners</li> <li>• Identify acquisition opportunities to expand natural open space and protect habitat in partnership with local jurisdiction and community</li> <li>• Write and track grants for acquisition, revegetation, and habitat restoration</li> <li>• Track restoration projects and applicable monitoring efforts occurring throughout the basin</li> <li>• Coordinate implementation of capital projects and smaller habitat enhancement projects</li> </ul>	<p><b>40%</b></p>
<p><b>Community Outreach &amp; Engagement</b> Engage with residents, businesses, and local community groups to achieve conservation and restoration goals and ensure local voices are represented in decision making.</p>	<ul style="list-style-type: none"> <li>• Build relationships with businesses and residents to promote creative solutions for stormwater management, aquatic habitat restoration, and riparian revegetation</li> <li>• Build relationships with community groups in the Duwamish basin and within North Highline and Skyway neighborhoods</li> <li>• Work collaboratively with the local communities to ensure their voices help inform conservation and restoration actions</li> </ul>	<p><b>20%</b></p>

**- FINAL -**

**EXHIBIT B: 2022 Duwamish Steward Inter-local Agreement (ILA) Cost-share**

Pursuant to section 5.3 of the ILA, the Duwamish Management Team shall, by October 1 of each year, establish an annual budget that provides for the level of funding and total resource obligations of the Parties for the following calendar year. Such obligations are to be allocated on a proportional basis in accordance with the initial allocation formula for 2022 set forth in this Exhibit B. The base contribution of each party shall be updated every year, with automatic adjustments for inflation, based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). When an additional government becomes party to this Agreement, the government's initial cost share shall be determined jointly by the Parties and will be included in Exhibit B.

In the event that external revenues are available to support the base budget, such revenues will offset party cost-shares according to the base shares shown in Exhibit B, unless otherwise agreed upon by the parties.

For 2022, WRIA 9 has agreed to make a one-time contribution of \$25,000 to support the program. By mutual agreement of the parties, the WRIA 9 contribution will be divided equally among King County and Seattle only.

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<b>2022 Base Cost-share</b>		
ILA Party	Cost-share	Base share
King Co.	\$79,000	38%
Seattle	\$79,000	38%
Tukwila	\$26,000	12%
Port of Seattle	\$26,000	12%
<b>Total</b>	<b>\$210,000</b>	<b>100%</b>

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<b>2022 Adjusted Cost-share</b>		
External revenue	Cost-share	Adjusted share
WRIA 9	\$25,000	12%
King Co.	\$66,500	32%
Seattle	\$66,500	32%
Tukwila	\$26,000	12%
Port of Seattle	\$26,000	12%
<b>Total</b>	<b>\$210,000</b>	<b>100%</b>

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# Exhibit C: Duwamish Service Area







## INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**  
 FROM: **Hari Ponnekanti, Public Works Director/ City Engineer**  
 BY: **Joshua Hopkins, Surface Water Project Manager**  
 CC: **Mayor Allan Ekberg**  
 DATE: **August 12, 2022,**  
 SUBJECT: **S. 131<sup>st</sup> Place Drainage Improvement Project**  
**Project No. 91641204**  
**Engineering and Design Consultant Selection and Agreement**

### ISSUE

Approve a contract with PACE Engineers to provide engineering and design services for the S 131<sup>st</sup> Place Drainage Improvement Project in the amount of \$371,610.00.

### BACKGROUND

The S. 131<sup>st</sup> Place Drainage Improvement Project was established as a City CIP project in 2019. The primary goals of this project are to address local flooding of roadway and adjacent private properties and address upstream issues that contribute to flooding, water quality concerns and present fish barriers and habitat degradation. This contract will consist of two parts: 1) Part A will be to develop a permitted design for a fish-passable culvert beneath S. 131<sup>st</sup> Place and associated stream and/or roadway improvements that will improve stream flow, alleviate flooding, and eliminate barriers to fish migration; 2) Part B will entail an assessment and analysis of the Southgate Creek basin for the purpose of identifying future surface water improvement projects that will reduce downstream flooding, eliminate the need for regulated dredging activities, improve water quality, reduce undesirable erosion, and improve stream flow alignments and/or conditions to benefit fish passage and habitat.

### ANALYSIS

A Request for Proposals (RFP) for engineering and design services was advertised in the Daily Journal of Commerce and Seattle Times. PACE Engineer’s proposal was reviewed and scored according to predefined criteria by a selection committee. PACE’s proposal scored high among committee members. The City has contracted with PACE Engineers for engineering and design services for numerous projects in the past with good results. Staff have had positive experience and continue to be very satisfied with PACE’s work.

### FISCAL IMPACT

PACE has provided a cost estimate not to exceed \$371,610.00 to perform engineering and design services for the S 131<sup>st</sup> Place Drainage Improvements Project. The project CIP design budget is \$150,000.00 and the City has secured \$120,083.00 in grant funding from the King County Flood Control District. If awarded, the remaining \$101,527.00 could be funded by a pending grant of \$300,000.00 or the Surface Water (412) utility fund.

	<u>Cost Estimate</u>	<u>Fund Source</u>	<u>2021-2023 Design Budget</u>
Design Contract	\$ 371,610.00	Project CIP	\$ 150,000.00
		Grant Funding	120,083.00
		412 Fund/Grant	<u>101,527.00</u>
<b>Total</b>	<b>\$ 371,610.00</b>		<b>\$ 371,610.00</b>

### RECOMMENDATION

Council is being asked to approve a consultant agreement with PACE Engineers in the amount of \$371,610.00 for engineering and design services for the S. 131<sup>st</sup> Place Drainage Improvement project and consider this item on the Consent Agenda at the August 22, 2022, Special Council Meeting.

## CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2021 to 2026

**PROJECT:** **S 131st Place Drainage Improvements** Project No. 91641204

**DESCRIPTION:** Design and replace an existing 36" culvert under S. 131st Pl. Raise the roadway approximately 18" and/or provide a concrete wall or other means to keep Southgate Creek within its banks during storm events.

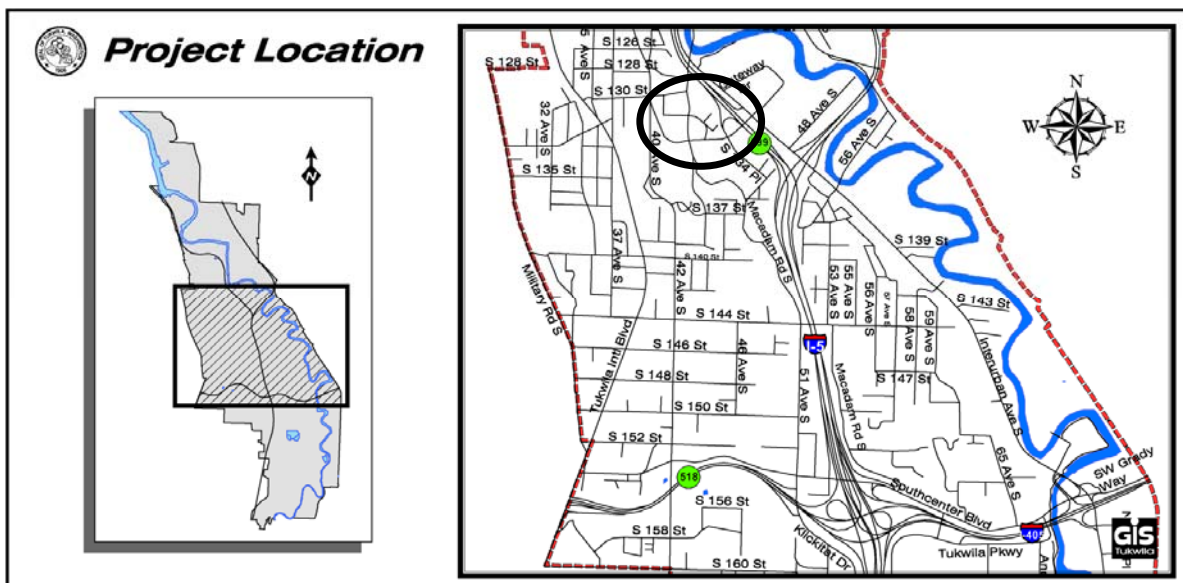
**JUSTIFICATION:** Southgate Creek overtops its bank several times per year during storm events and runs through private property. Debris is deposited within a private driveway and storm system.

**STATUS:** Maintenance is performed annually on the creek to remove excess sedimentation to reduce the likelihood of flooding.

**MAINT. IMPACT:** Reduce the frequency of stream sediment removal and storm cleanup.

**COMMENT:** Project will require an HPA. Will consider combining with a future overlay project to reduce overall costs. A grant request for \$200K was submitted to the KCFCD in 2020.

FINANCIAL (in \$000's)	Through		Estimated							TOTAL
	2019	2020	2021	2022	2023	2024	2025	2026	BEYOND	
<b>EXPENSES</b>										
Design		100	150							250
Land (R/W)										0
Const. Mgmt.				150						150
Construction				850						850
<b>TOTAL EXPENSES</b>	<b>0</b>	<b>100</b>	<b>150</b>	<b>1,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,250</b>
<b>FUND SOURCES</b>										
Awarded Grant										0
Proposed Grant			100	150						250
Mitigation Actual										0
Mitigation Expected										0
City Oper. Revenue	0	100	50	850	0	0	0	0	0	1,000
<b>TOTAL SOURCES</b>	<b>0</b>	<b>100</b>	<b>150</b>	<b>1,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,250</b>





**PROFESSIONAL SERVICES AGREEMENT**

*(Includes consultants, architects, engineers, accountants, and other professional services)*

**THIS AGREEMENT** is entered into between the City of Tukwila, Washington, hereinafter referred to as “the City”, and Pace Engineers, Inc., hereinafter referred to as “the Consultant”, in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. **Project Designation.** The Consultant is retained by the City to perform engineering and design services in connection with the project titled S. 131<sup>st</sup> St. Drainage Improvements .
2. **Scope of Services.** The Consultant agrees to perform the services, identified on Exhibit “A” attached hereto, including the provision of all labor, materials, equipment and supplies.
3. **Duration of Agreement; Time for Performance.** This Agreement shall be in full force and effect for a period commencing upon execution and ending December 31, 2023 , unless sooner terminated under the provisions hereinafter specified. Work under this Agreement shall commence upon written notice by the City to the Consultant to proceed. The Consultant shall perform all services and provide all work product required pursuant to this Agreement no later than December 31, 2023 unless an extension of such time is granted in writing by the City.
4. **Payment.** The Consultant shall be paid by the City for completed work and for services rendered under this Agreement as follows:
  - A. Payment for the work provided by the Consultant shall be made as provided on Exhibit “B” attached hereto, provided that the total amount of payment to the Consultant shall not exceed \$371,610.00 without express written modification of the Agreement signed by the City.
  - B. The Consultant may submit vouchers to the City once per month during the progress of the work for partial payment for that portion of the project completed to date. Such vouchers will be checked by the City and, upon approval thereof, payment shall be made to the Consultant in the amount approved.
  - C. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this Agreement and its acceptance by the City.
  - D. Payment as provided in this section shall be full compensation for work performed, services rendered, and for all materials, supplies, equipment and incidentals necessary to complete the work.
  - E. The Consultant’s records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the City and the state of Washington for a period of three (3) years after final payments. Copies shall be made available upon request.

5. **Ownership and Use of Documents.** All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with the Consultant's endeavors. The Consultant shall not be responsible for any use of the said documents, drawings, specifications or other materials by the City on any project other than the project specified in this Agreement.
6. **Compliance with Laws.** The Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services rendered under this Agreement.
7. **Indemnification.** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. **Insurance.** The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

A. **Minimum Amounts and Scope of Insurance.** Consultant shall obtain insurance of the types and with the limits described below:

1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile Liability insurance shall cover 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. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. **Commercial General Liability** insurance with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. **Workers' Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit. Professional Liability insurance shall be appropriate to the Consultant's profession.
- B. **Public Entity Full Availability of Contractor Limits.** If the Contractor maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Contractor.
- C. **Other Insurance Provision.** The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not be contributed or combined with it.
- D. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
- E. **Verification of Coverage.** Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Consultant shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
- F. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
- G. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
9. **Independent Contractor.** The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to the Consultant, or any employee of the Consultant.
10. **Covenant Against Contingent Fees.** The Consultant warrants that he has not employed or retained any company or person, other than a bonafide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the City shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. **Discrimination Prohibited.** Contractor, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.
12. **Assignment.** The Consultant shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.
13. **Non-Waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
14. **Termination.**
  - A. The City reserves the right to terminate this Agreement at any time by giving ten (10) days written notice to the Consultant.
  - B. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this Agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Consultant and the City, if the City so chooses.
15. **Applicable Law; Venue; Attorney's Fees.** This Agreement shall be subject to, and the Consultant shall at all times comply with, all applicable federal, state and local laws, regulations, and rules, including the provisions of the City of Tukwila Municipal Code and ordinances of the City of Tukwila. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit. Venue for any action arising from or related to this Agreement shall be exclusively in King County Superior Court.
16. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.
17. **Notices.** Notices to the City of Tukwila shall be sent to the following address:
 

City Clerk  
City of Tukwila  
6200 Southcenter Boulevard  
Tukwila, WA 98188

Notices to Consultant shall be sent to the following address:

Pace Engineers  
11255 Kirkland Way, Suite 300  
Kirkland, WA 98033
18. **Entire Agreement; Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.



DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

CITY OF TUKWILA

CONSULTANT

\_\_\_\_\_  
Allan Ekberg, Mayor

By: \_\_\_\_\_

Printed Name: Ken Nilsen, PE

Title: Executive Vice President

Attest/Authenticated:

Approved as to Form:

\_\_\_\_\_  
City Clerk, Christy O'Flaherty

\_\_\_\_\_  
Office of the City Attorney



August 10, 2022

City of Tukwila  
6300 Southcenter Boulevard, Suite 200  
Tukwila, WA 98188  
Attn: Joshua Hopkins, Surface Water Project Manager

## **Scope of Services Professional Civil Engineering Services South 131st Place Drainage Improvement Project**

### **Project Understanding**

The City of Tukwila would like to improve the Southgate Creek crossing of South 131st Street, along with a portion of the stream that is currently subject to routine flooding. The stream currently runs parallel to South 131st Street in a dug channel which accumulates sediments and requires periodic dredging. The existing culvert runs northwest beneath the roadway. The creek overtops South 131st Street during storm events flooding the street and a private access road belonging to NorMed.

The project consists of two components to be worked on simultaneously. Part A is to develop a permitted bid-ready design for a fish-passable culvert beneath South 131st St and associated stream and/or roadway improvements that will improve stream flow, alleviate flooding, and eliminate barriers to fish migration. Part B is an assessment and analysis of the Southgate Creek basin for the purpose of determining hydrology and identifying future surface water improvement projects that will reduce downstream flooding and sedimentation. The hydrologic modeling and stormwater analysis portion of the Part B Basin Study will occur early in the project and will feed into the hydraulic modeling portion of Part A. Sequencing the basin stormwater modeling prior to the other portion of the basin study will allow for calibration of the model and develop a higher level of confidence in recreating the existing flow conditions in Southgate Creek.

### **Scope of Work**

A detailed proposal consisting of fifteen (14) tasks follows. This proposal includes necessary civil, environmental, survey, structural, and geotechnical services through the design phase of this project. Construction administration and bid assistance is not included in this scope of work and can be reassessed at a later time based on the City's needs.

PACE will be the prime consultant for the entire Scope of Work and will oversee and administer all work on the project. PACE will complete all civil and survey in-house and will subcontract with GeoEngineers for geotechnical evaluations and permitting services.

### **Task 1 –Project Management**

PACE will provide administration and coordination for both Part A and part B of this project. The following items are included in this task:

1. Regular biweekly coordination and update meetings will be held with the City via Teams. Major design review meetings can be held in-person or remotely as required. The following major review meetings are anticipated:
  - a) Conceptual Alternatives Design Review
  - b) 30% Design Development Review
  - c) 60% Design Development Review
  - d) 90% Design Development Review
2. Review existing information provided by the City – as-builts, maintenance records, etc.
3. Coordinate with subconsultants.
4. In-house project administration, scheduling, and direction of design team staff.

### **Task 2 – Part A: Topographic Survey**

PACE will provide a topographic stream and boundary survey showing all locatable utilities and surface conditions, environmental constraints, right-of-way, and other relevant items along Southgate Creek and at the South 131st Street crossing. Full stream and wetland survey will extend 300 feet downstream of the existing South 131st Street crossing and upstream along both Southgate Creek tributary channels to South 133rd Street. A channel centerline survey will extend to down to Southgate Creek’s confluence with the Duwamish River including the SR 599 crossing, a private access road crossing, and the outlet tide gate.

The following items are included in this task:

- a) Develop survey limits.
- b) Research and confirm primary control points for use on the project.
- c) Establish horizontal and vertical control work points along the route.
- d) Survey the stream corridor locating surface improvements, types of material, and changes in elevation.
- e) All identifiable underground utilities will be surveyed along South 131st Street that will be impacted by the culver replacement. Utility locations will be based on surface indications, radio frequency locating and readily available maps from the service provider.
- f) The rights of way and adjoining properties will be calculated from record information and recovered monuments.
- g) The survey/base map will be prepared in AutoCAD® at a scale of 1” = 20’, showing the rights of way and lot lines, two-foot contours, and surveyed features. Other features from City GIS data (sensitive areas, setbacks, etc. will may be included to augment the survey).

PACE will provide the City with AutoCAD® files, DEM, and pdf of the basemap.

### **Task 3 – Part A: Conceptual Alternatives Design for Fish-Passable Crossing**

Based on a site assessment and the topographic survey, PACE will prepare up to three conceptual alternatives for the South 131st Street crossing and associated stream improvements for City review and comment. The alternatives will present options and address the following items, as well as any specific items requested by the City:

- The need of property acquisition
- The project extents and grading limits

- Roadway impacts

The following items are included in this task:

- a) Site visit to the South 131st Street crossing area to collect stream data
- b) Preliminary layouts for the three conceptual designs
- c) Pro/con list and high-level cost benefit for each alternative

#### **Task 4 – Part B: Basin Analysis and Stormwater Modelling**

This task consists of a desktop analysis of Southgate Creek basin to establish runoff volumes of individual sub-basin areas and existing flow paths leading to the South 131st St crossing. The task includes the following items:

- a) Review of all existing stormwater infrastructure data in Southgate Creek basin including GIS data, as-builts, past watershed reports.
- b) Basin delineation using LiDAR and stormwater network data, the number and size of subbasins will depend on the density of the flow paths and pipe network. All significant flow paths will be captured in the stormwater model.
- c) Landcover and impervious area will be delineated from publicly available datasets and aerial imaging and combined with USDA NRCS soil data to calculate rainfall runoff modeling parameters.
- d) A continuous simulation MGSFlood stormwater model will use the SEATAC long-term rainfall record to calculate all statistical peak flow estimates (Q2 – Q500)
- e) Calibration of the MGSFlood will be based on the date of known storm events where flooding occurred ie. roadway overtopping.

#### **Task 5 – Part A: Hydraulic Design Report and Schematic Design (30 % design)**

After the preferred alternative and project extents are established, PACE will build an existing model & proposed condition hydraulic model and write up a basis of design report to establish how the project will mitigate flooding, meet fish passage requirements, and maintain structure resiliency. The Hydraulic Design Report will cover coordination with WSDOT on SR 599 plans and how the proposed project will function with future downstream improvements. Hydraulic modeling will be performed using the United States Bureau of Reclamation's SRH-2D computer program, a FEMA approved two-dimensional (2D) hydraulic and sediment transport numerical model. Model results will inform multiple aspects of the crossing design including the structure size, streambed design, and scour.

In conjunction with the report and modeling PACE will develop the 30% schematic design of the proposed crossing. The task includes the following components.

- a) Site assessment results
- b) Existing geomorphology
- c) Hydrology method and results
- d) Existing and proposed modeling and analysis
- e) WSDOT coordination
- f) Channel and crossing designs
- g) Streambed design
- h) Restoration components

- i) Scour analysis
- j) 30% design sheets

#### **Task 6 – Part A: Geotechnical Evaluation**

GeoEngineers will provide a geotechnical evaluation of the site. This evaluation will include up to two soil borings to depths of 40 feet below existing ground surface in the vicinity of proposed crossing structure and prepare a geotechnical design memorandum (see the attached Scope of Work from Geoengineers for more details on the geotechnical evaluation).

#### **Task 7 – Part A: Design Development Plans (60% Plans, Specifications and Estimates)**

Based on City comments on the 30% design, PACE will prepare Design Development Plans (60%) of the South 131st Street crossing and included stream improvements. We will also prepare an outline of the specifications and prepare an estimate of probable construction costs for City review and comment. This work includes:

- a) Design of the stream alignment
- b) Design of the proposed channel geometry
- c) Design of the roadway elevation and alignment
- d) Design of any large wood or other restoration features
- e) Outline of the proposed specifications using WSDOT format
- f) Prepare budget-level construction cost estimate

#### **Task 8 – Part A: Easement Preparation and Acquisition**

It is assumed that the project will require 3 permanent or temporary construction easements. PACE will prepare, coordinate with impacted property owners for signature and record all successfully secured easements. It is assumed that an appraisal is not required for this work and the City will secure any required Title Reports. If more than 3-easements are required, PACE will utilize the Management Reserve Fund as directed by the City.

#### **Task 9 – Part A: Permitting**

GeoEngineers and PACE will coordinate with the required permitting agencies and prepare all necessary permit applications. This task will be initiated as early as possible in the design process, based on the 60% design plans. The City will initiate coordination with permitting agencies earlier in the project to establish a relationship. The project is assumed to qualify for a streamlined permit process utilizing the Fish Habitat Enhancement Hydraulic Project Approval (FHE-HPA) process. GeoEngineers will lead the baseline critical areas assessment, environmental documentation, agency/tribal outreach and permit submittal processes. GeoEngineers and PACE will collaborate on permit application materials, as outlined in the attached Scope of Work from Geoengineers.

#### **Task 10 – Part A: Public Involvement**

PACE will assist the City with a public outreach to solicit comments on the design if required. This includes preparing materials for soliciting feedback from nearby and affected property owners. The task assumes preparation and attending one community meeting if deemed necessary. The City will be responsible for providing contact information for the businesses in the project vicinity. If a community meeting is held

the City will be responsible for setting up the meeting time and location and notifying the businesses. PACE will organize any feedback received and prepare a written summary.

### **Task 11 – Part B: Basin Planning**

Using data from the stormwater model and coordination with City staff PACE will identify problem areas or areas of opportunity for improvement within the Southgate Creek Basin. PACE will conduct a site visit to upstream areas to assess the potential and effectiveness of future surface water improvement projects outside of the restoration proposed in Part A. Improvements will aim to

- Improve water quality
- Reduce any flooding that may be identified
- Reduce undesirable erosion
- Improve fish passage and habitat

Tasks Include:

- a) Developing a list of potential treatments or solutions
- b) Conduct a site visit to identified potential improvement locations
- c) Preparing a Tech Memo summarizing the basin stormwater modeling results as well as proposed improvements including a project description, sketch and preliminary cost estimate

### **Task 12 – Part A: Construction Document Development (90% Plans, specifications and estimates)**

PACE will provide construction level documents based upon City comments from the 60% plan review. At this stage PACE will also develop complete project specifications utilizing contract documents and general provisions from past City projects. Any specific technical specifications will be created as needed. PACE anticipates the project will bid as one schedule and that the bid documents will be based on the most recent Washington State Department of Transportation “Standard Specifications for Road, Bridge and Municipal Construction”. It is assumed that the City’s review of these documents will be limited to two reviews and two set of revisions to get the documents “bid-ready”.

### **Task 13 - QA (Quality Assurance)**

In order to assure that the final plans and specifications are complete, accurate and appropriate, PACE will conduct a quality assurance review of the documents prior to each submittal to the City. The review will consist of a complete sheet-by-sheet and contract document review to assure the City that the documents meet the standard level of care of our industry.

### **Task 14 – Management Reserve Fund**

If directed by the City, PACE will provide services needed to assist the City with tasks related to this project that were not specifically addressed in this scope of work. When requested by the City, PACE will provide a scope and budget for the task identified by the City. PACE will not proceed with the task until written authorization has been provided by the City.

### **PROJECT COSTS**

The costs associated with the above-described work is shown on the attached spreadsheet.

PACE Engineers

Project Budget Worksheet - 2022 Washington Standard Rates

Project Name:	<b>S 131st Place Drainage Improvement Project</b>	Location:	<b>Tukwila, WA</b>	Prepared By:	<b>SAS, KHN</b>
Project #:	<b>P22-103</b>	Billing Group #:	Task #:	Date:	<b>8/9/2022</b>

Staff Type # (See Labor Rates Table)	Code	Labor Hours by Classification												Hour Total	Dollar	Total			
		1	11	15	17	34	74	19	26	40	41	58	45				118		
Staff Type Hourly Rate	Job Title	Sr. Principal Engineer	Sr. Project Manager	Sr. Engineer	Engineer I	Planner III	CAD Tech III	Sr. Structural Engineer	Designer III	Sr. Principal Surveyor	Principal Surveyor	Two-Person Crew	Sr. Survey Tech	Sr. Project Administrator					
<b>Task 1 - Project Management</b>																			
		4	16	8													28.0	\$5,932	
		4	16														20.0	\$4,572	
			1	2						1	13	94	46				157.0	\$31,650	
		1	2														3.0	\$699	
			8	8	8	8											32.0	\$5,456	
		2	8	16	16		24										66.0	\$10,598	
<b>Task 4 - Basin Analysis and Stormwater Modelling</b>																			
			2	6	8												16.0	\$2,520	
			2	6	16												24.0	\$3,576	
			2	10	12												24.0	\$3,728	
		6	8	8										4			26.0	\$5,194	
			8	24	30	30											92.0	\$14,556	
			2	24	8	4	40										78.0	\$12,012	
<b>Task 6 - Geotechnical Evaluation</b>																			
		2	6	24	16		40	4	10								102.0	\$16,064	
		2	8		8									16			34.0	\$5,454	
		1	2	6	6												15.0	\$2,511	
<b>Task 8 - Easement Preparation and Acquisition</b>																			
		2	4	12			10				24						52.0	\$9,928	
<b>Task 9 - PACE Permitting Support</b>																			
		1	4	8		8	12										33.0	\$5,507	
<b>Task 10 - Public Involvement</b>																			
		1	8	8		24											41.0	\$7,183	
<b>Task 11 - Basin Planning</b>																			
		1	10	30	30	40	16										127.0	\$20,175	
<b>Task 12 - Construction Documents</b>																			
		4	8	24	48		64	24	35					16			223.0	\$34,359	
<b>Task 13 - QA</b>																			
		8	16					4									28.0	\$6,372	
<b>Task 14 - Management Reserve Fund</b>																			
																			\$25,000
Hours Total		39.0	143.0	226.0	206.0	114.0	206.0	32.0	45.0	1.0	37.0	94.0	46.0	36.0			1225.0		
Labor Total		\$9,945	\$31,746	\$38,420	\$27,192	\$18,012	\$29,870	\$6,240	\$6,525	\$222	\$7,770	\$20,868	\$7,268	\$4,752					\$233,830.00

Please note this project is budgeted as a whole and not by task.

Expenses	rate/unit	Reimbursable	
		Quantity	Cost
Postage/Courier			
Printing Costs			
Mileage/Travel/Per Diem			
Miscellaneous			\$500.00
<b>Total</b>			\$500.00

Subconsultants	
Utility Locate	\$3,500
Geotechnical Engineer	\$24,800
Cultural / Environmental / Permitting	\$42,500
Wetland Contengency	\$54,000
<b>Subconsultant Subtotal</b>	\$124,800
Markup	10%
<b>Total</b>	\$137,280.00

PACE Billed Labor Total	\$233,830.00
Reimbursable Expenses	\$500.00
Subconsultants	\$137,280.00
<b>Total Project Budget</b>	<b>\$371,610.00</b>

August 5, 2022

PACE Engineers, Inc.  
11255 Kirkland Way, Suite 300  
Kirkland, Washington 98033

Attention: Shane Sheldon, PE

Subject: Proposal  
Geotechnical Engineering and Environmental Permitting Services  
South 131<sup>st</sup> Place Drainage Improvements Project  
Tukwila, Washington  
File No. 0259-061-00

## **INTRODUCTION**

Thank you for the opportunity to provide this proposal for geotechnical engineering and environmental permitting services in support of the South 131<sup>st</sup> Place Drainage Improvements Project in Tukwila, Washington. Our understanding of the requested services is based on email correspondence with you on July 18, 2022. We understand that our services are requested in support of Part A of the project, which includes replacement of the existing culvert conveying Southgate Creek under South 131<sup>st</sup> Place with a fish-passable crossing. At this time, our proposal does not address Part B of the project, which is a drainage study of the Southgate Creek basin. This proposal also does not address construction-phase support, which can be included in a future scope of work and/or contract amendment.

## **SCOPE OF SERVICES**

Our proposed scope of services is split into two (2) tasks, one (1) addressing geotechnical engineering and the other environmental permitting. Task numbering follows the prime scope provided to GeoEngineers.

### **Task 6. Geotechnical Engineering**

The purpose of our geotechnical services to review available information and explore subsurface conditions as a basis for developing geotechnical recommendations for the proposed Southgate Creek culvert crossing.



**Subtask 6.1 – Field Explorations and Laboratory Testing**

- Review readily available published geologic data and our relevant in-house files for existing information on subsurface conditions in the project vicinity.
- Apply for and secure a Right-of-Way (ROW) Use Permit from the City of Tukwila (City) for the work to be completed along South 131<sup>st</sup> Place. Coordinate driller and traffic control subcontractors.
- Visit the project site to mark out the preliminary exploration locations and contact the Washington State Utility Notification Center, as required by Washington State law. GeoEngineers, Inc. (GeoEngineers) will not be liable for damage to underground utilities that are not marked during the utility locating process.
- Explore subsurface conditions by advancing up to two soil borings to depths of 40 feet below existing ground surface (for a total drill footage of 80 feet) using subcontracted equipment and operators. Our field representative will continuously monitor the drilling activities, maintain a log of subsurface conditions and collect representative soil samples at 2.5- to 5-foot intervals.
- Conduct geotechnical laboratory testing on selected soil samples. We anticipate laboratory testing will include particle-size gradation analyses and moisture content determinations.

**Subtask 6.2 – Provide Geotechnical Design Recommendations**

- Provide a discussion of soil and groundwater conditions encountered in our explorations.
- Provide the Seismic Site Class in accordance with the *2020 American Association of State Highway and Transportation Officials Load and Resistance Factor Design Bridge Design Specifications* (AASHTO LRFD) criteria and discuss our opinion on the potential for surface rupture, liquefaction and lateral spreading at the site. Based on our experience with similar projects, we have limited the scope of our liquefaction analysis to simplified empirical methods addressing only the depths explored; advanced liquefaction analysis methods (such as effective stress analysis or numerical modeling) are not included in our scope at this time. If simplified analysis methods indicate a liquefaction risk that may cause significant damage to the structure, it may be appropriate to perform a more detailed evaluation at a later date.
- Provide recommendations for site preparation and earthwork. We will discuss temporary erosion and sedimentation controls, temporary and permanent slopes, estimated stripping and clearing depths, fill placement and compaction requirements, suitability of on-site material for use as structural fill, import fill requirements, wet weather considerations, groundwater handling and dewatering, and site drainage.
- Provide design recommendations for shallow foundations for culvert support in accordance with AASHTO LRFD guidelines. We will provide bearing surface preparation recommendations, including over excavation and replacement, if necessary, minimum recommended size, bearing resistances, and passive soil pressures and friction for resisting lateral loads.
- Provide recommended active, passive and at-rest lateral earth pressures for the culvert and associated wingwalls in accordance with AASHTO LRFD guidelines. We will also provide recommendations for seismic surcharge pressures, if needed, and drainage criteria.



### Subtask 6.3 – Geotechnical Design Report and Consultation

- Prepare a written geotechnical report presenting our findings, conclusions and recommendations. Our report will include a project site plan showing approximate locations of explorations, summary exploration logs, laboratory test results and appropriate engineering figures.
- Provide limited consultation after our report has been finalized. We envision this will include answering geotechnical-related design questions in the form of phone calls, emails and or online virtual meetings. We have budgeted up to three (3) hours for Associate and three (3) hours for Project Engineer for this task.

### Task 6 Deliverables

- Draft and final geotechnical report

### Task 6 Assumptions and Exclusions

Our budget estimate is based on the following assumptions and exclusions:

- GeoEngineers will obtain a ROW use permit to complete borings in street. We have assumed the City will waive all ROW use fees.
- Our budget estimate assumes that the exploration can be completed in one (1) day during typical work hours.
- Our budget assumes that South 131<sup>st</sup> Place can be fully closed between Macadam Road South to the west and local business access to the east on the day of drilling. We have assumed a traffic control plan will be required.
- Borings through asphalt will be patched with cement concrete, and an asphalt repair will not be required.
- We have not included the installation of wells nor monitoring of groundwater levels through the wet season at this time.
- Our scope and fee assumes that soil cuttings generated by the drilling will be removed by the drilling subcontractor, and that signs of soil or groundwater contamination are not observed.

### Task 9. Environmental Permitting

Permitting will be a joint effort between PACE Engineers, Inc. (PACE) and GeoEngineers. GeoEngineers will lead the baseline critical areas assessment, environmental documentation, agency/tribal outreach and permit submittal processes. GeoEngineers and PACE will collaborate on permit application materials, as outlined below.

As a fish passage improvement project that removes a manmade barrier, the project is anticipated to qualify for a streamlined permit process utilizing the Fish Habitat Enhancement Hydraulic Project Approval (FHE-HPA) process for state approval and a programmatic consultation for Restoration Actions in Washington State for Endangered Species Act (ESA) compliance necessitated by the federal permit nexus. The FHE-HPA approval process obviates the need to complete State Environmental Policy Act (SEPA) and local permitting separately, streamlining the timeline and documentation requirements. The programmatic

ESA consultation process streamlines the documentation and approval timeline for ESA compliance. The scope of services outlined below is premised on the project qualifying for these streamlined processes.

#### **Subtask 9.1 – Critical Areas Assessment and Report**

The purpose of this task is to identify and document regulated aquatic areas, critical areas and other permitting considerations.

- Complete a background review of available project-specific data and publicly available wetland, stream, wildlife and soil databases.
- Complete a site reconnaissance to identify and delineate wetlands, stream ordinary high water mark (OHWM) and other species or habitats present at the site that are protected by federal, state or local regulations.
- Mark wetlands (if any) and streams in the field with survey flagging for subsequent professional land survey and incorporation onto the project base map.
- Submit draft and final critical areas report for use during environmental permitting of the project.

#### **Subtask 9.2 – Environmental Documentation and Permit Application Materials**

- Complete a Joint Aquatic Resources Permit Application (JARPA) form for submission to regulatory agencies. Drawings that accompany the permit application will be provided by PACE.
- Prepare ESA consultation documentation in the form of a Biological Evaluation (BE) and/or Specific Project Information Form (SPIF), depending on agency requirements (U.S. Fish and Wildlife Service [USFWS] and National Marine Fisheries Service [NMFS]).
- Develop a Cultural Resources Survey (CRS) Report for compliance with Section 106 of the National Historic Preservation Act. This survey and report will be subcontracted to a specialty provider.

#### **Subtask 9.3 – Permit Submittal and Coordination**

- JARPA Form and Drawings and Critical Areas Report will be submitted to Washington Department of Fish and Wildlife (WDFW) for FHE-HPA review.
- JARPA Form and Drawings, Critical Areas Report, BE and/or SPIF, and CRS Report will be submitted to the US Army Corps of Engineers (USACE) to obtain a Nationwide Permit under their authority to administer Section 404 of the Clean Water Act; most Nationwide Permits also include approvals for Section 401 of the Clean Water Act and Coastal Zone Management Act (CZMA) Consistency.
- Track permit submittal, review and approval schedule and progress during the permit review periods.
- Coordinate with the USACE, Washington Department of Ecology, WDFW and federal ESA agencies during permit review periods and respond to questions and requests for more information from these agencies.
- Participate in a meeting with the City planning department to review compliance with the substantive requirements of the Critical Areas Ordinance in lieu of permit submittal, which is not needed due to the FHE-HPA.

**Subtask 9.4 – Design Coordination, Management and Support**

- Provide consultation to other members of the design team during design development addressing permit restrictions and requirements that may influence alternative designs or design details during advancement.
- Support landscape design including identifying appropriate native planting palette for restoration of construction impacts within the riparian buffer.
- Participate in team meetings over the course of the project duration.

**Task 9 Deliverables**

- Critical Areas Report
- BE and/or SPIF
- CRS Report
- JARPA Application
- Copies of each electronic permit application submittal
- Permits received will be scanned and copies provided to the City

**Task 9 Assumptions and Exclusions**

Our budget estimate is based on the following assumptions and exclusions:

- Professional Land Survey of the OHWM and/or wetland boundaries will be provided by PACE and is not included.
- The project will qualify for a FHE-HPA; therefore, SEPA compliance and other local permits, including site development and/or clearing and grading, will be waived.
- Project can be characterized as restoration and habitat enhancement and is, therefore, not anticipated to have adverse effects on regulated critical areas or other protected species or habitats; habitat mitigation planning and design is not anticipated to be needed. There are wetlands immediately adjacent to the site; as long as impacts to wetlands are temporary in nature and restored following construction (i.e., no permanent loss) and/or are minor in nature and limited to impacts from the replacement structure itself, we anticipate wetland mitigation will not be required. If sediment removal is required within the wetland or other permanent impacts cannot be avoided or minimized, including alteration of flow/hydroperiod, a hydrology study and/or wetland mitigation may be required. The final decision will be made by regulatory agencies, potentially in consultation with tribal stakeholders.
- We have included a contingency fee estimate to provide a wetland hydrology monitoring study and wetland mitigation planning/design in case wetland impacts require mitigation. The hydrology monitoring study includes planning and preparation, procurement of well materials, installation of up to four (4) shallow groundwater monitoring wells and pressure transducers, data download and management for one (1) year, data analysis and a study report. Wetland mitigation planning and design assumes that compensatory wetland mitigation can be achieved either on-site, through purchase of wetland mitigation bank credits or an in-lieu fee program, or on another City-owned property, but does not include identifying an off-site mitigation site. The wetland mitigation

conceptual design would be submitted with permit applications and would need to be incorporated into design drawings by PACE.

- Drawings that accompany the permit application will be provided by PACE.
- Design calculations (e.g., volumes, areas) needed for permit application materials will be provided by PACE.
- The project will qualify for a Section 404 Nationwide Permit and neither an individual 401 Water Quality Certification nor a Construction Stormwater General will be needed from Ecology.
- GeoEngineers will act as authorized agent for federal and state permit authorizations, such as those required from the USACE, WDFW and Washington State Department of Ecology (Ecology).
- There is no state-owned aquatic land within the project footprint; an Aquatic Lands Lease will not be required from the Washington State Department of Natural Resources.
- All deliverables will be provided as electronic files.

## **SCHEDULE, TERMS, AND FEE ESTIMATE**

### **Schedule**

We are available to schedule environmental fieldwork within approximately one (1) month of contract approval. The Critical Areas Report can be submitted within approximately one (1) month of fieldwork. Permit documentation is anticipated to be prepared during the Fall 2022 through Spring 2023 timeframe for submittal in the spring. Permits are anticipated to take up to six (6) months for approval.

We will schedule a geotechnical driller upon authorization. Geotechnical drilling subcontractors are currently booked out six (6) to eight (8) weeks. Laboratory test results are typically available within one (1) to two (2) weeks of the completion of our explorations, and we can discuss preliminary findings with the project team soon thereafter. We can typically complete our draft report within about three (3) weeks of completing our explorations. Please contact us if you wish to modify this schedule.

Our services will be completed in accordance with the terms described in the Subconsultant Professional Services Agreement, to which this proposal is attached.

### **Fee Estimate**

The estimated fee for our services will be determined on a time-and-materials basis using the rates contained in our 2022 Standard Schedule of Charges, which is attached as part of this proposal. We will endeavor to keep you apprised of project status and conditions that may significantly affect our scope and estimate. The total estimated fees for the work described above is presented in the table below.



Task	Estimated Budget
6. Geotechnical Engineering Services	
6.1 Field Explorations and Laboratory Testing (GeoEngineers Time and Expense)	\$7,800
<i>Subcontractor Fees for Task 6.1</i>	\$8,000
6.2 Provide Geotechnical Design Recommendations	\$3,500
6.3 Geotechnical Design Report and Consultation	\$5,500
<b>Subtotal Task 6</b>	<b>\$24,800</b>
9. Environmental Permitting	
9.1 – Critical Areas Assessment and Report	\$10,200
9.2 – Environmental Documentation and Permit Application Materials	\$14,700
9.3 – Permit Submittal and Coordination	\$ 9,400
9.4 – Design Coordination, Management and Support	\$8,200
<b>Subtotal Task 9</b>	<b>\$42,500</b>
Contingency Tasks	
Wetland Hydrology Monitoring Study	\$29,000
Wetland Mitigation Planning/Design	\$25,000
<b>Subtotal Contingency Tasks</b>	<b>\$54,000</b>
<b>Grand Total Including Contingency</b>	<b>\$121,300</b>



There are no intended third-party beneficiaries arising from the services described in this proposal and no party other than the party executing this proposal shall have the right to legally rely on the product of our services without prior written permission of GeoEngineers.

This proposal is valid for a period of 60 days commencing from the first date listed above and subject to renegotiation by GeoEngineers, Inc., after the expiration date.

Sincerely,  
GeoEngineers, Inc.



David B. Conlin, MA, PWS  
Senior Biologist



Morgan McArthur, PE  
Associate Geological Engineer

DBC:MM:sfw

Attachments:

Schedule of Charges – Redmond-Seattle-Tacoma 2022

Schedule of Charges – Redmond-Seattle-Tacoma Lab Inside Charges 2022

Proprietary Notice: The contents of this document are proprietary to GeoEngineers, Inc. and are intended solely for use by our clients and their design teams to evaluate GeoEngineers' capabilities and understanding of project requirements as they relate to performing the services proposed for a specific project. Copies of this document or its contents may not be disclosed to any other parties without the written consent of GeoEngineers.

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## Schedule of Charges – 2022

### COMPENSATION

Our compensation will be determined on the basis of time and expenses in accordance with the following schedule unless a lump sum amount is so indicated in the proposal or services agreement. Current rates are:

#### Professional Staff

Staff 1 Scientist	\$ 126/hour
Staff 1 Engineer	\$ 134/hour
Staff 2 Scientist	\$ 145/hour
Staff 2 Engineer	\$ 152/hour
Staff 3 Scientist	\$ 166/hour
Staff 3 Engineer	\$ 173/hour
Scientist 1	\$ 192/hour
Engineer 1	\$ 199/hour
Scientist 2	\$ 199/hour
Engineer 2	\$ 203/hour
Senior Engineer/Scientist 1	\$ 221/hour
Senior Engineer/Scientist 2	\$ 243/hour
Associate	\$ 260/hour
Principal	\$ 280/hour
Senior Principal	\$ 299/hour

#### Technical Support Staff

Administrator 1	\$ 92/hour
Administrator 2	\$ 105/hour
Administrator 3	\$ 120/hour
CAD Technician	\$ 115/hour
CAD Designer	\$ 135/hour
Senior CAD Designer	\$ 155/hour
GIS Analyst	\$ 145/hour
Senior GIS Analyst	\$ 160/hour
GIS Coordinator	\$ 180/hour
*Technician	\$ 99/hour
*Senior Technician	\$ 119/hour
*Lead Technician	\$ 127/hour

\*Hours in excess of 8 hours in a day or 40 hours in a week will be charged at one and one-half times the hourly rates listed above.

Contracted professional and technical services will be charged at the applicable hourly rates listed above. Staff time spent in depositions, trial preparation and court or hearing testimony will be billed at one and one-half times the above rates. Time spent in either local or inter-city travel, when travel is in the interest of this contract, will be charged in accordance with the foregoing schedule. A surcharge may be applied to night and weekend work. See proposal for details.

Rates for data storage and web-based access will be provided on a project-specific basis.



**Equipment**

Air Sparging Field Test, per day	\$	100.00
Air/Vapor Monitoring Equipment (PID, 5-Gas Meter), per day	\$	100.00
Asbestos Sample Kit	\$	25.00
Blastmate, per day	\$	100.00
D&M Sampler, per day	\$	80.00
DO (Dissolved Oxygen) Kit	\$	20.00
Dynamic Cone Penetrometer, per day	\$	40.00
E-Tape (Electric Tape), per day	\$	25.00
Field Data Acquisition Equipment	\$	50.00
Field Gear / Reconnaissance, per day	\$	50.00
Gas Detection Meters, per day	\$	100.00
Generator, per day	\$	100.00
Groundwater Pressure Transducer w/ Datalogger, per day	\$	50.00
Groundwater Pressure Transducer w/ Datalogger, per week	\$	200.00
Hand Auger, per day	\$	20.00
Inclinometer Probe, per day, 1/2 day minimum	\$	200.00
Interface Probe, per day	\$	50.00
Iron Test Kit	\$	20.00
Laser Level, per day	\$	50.00
Low Flow Groundwater Sampling Equipment, per day	\$	225.00
Multiparameter Water Quality Meter, per day	\$	80.00
Nuclear Density Gage, per hour, 1/2 day minimum	\$	10.00
Peristaltic Pump, per day	\$	50.00
pH Probe, per day	\$	15.00
PID, FID or OVA, per day	\$	100.00
Saximeter, per day	\$	50.00
Scuba Diving Gear, per day/per diver	\$	250.00
Shallow Soil Exploration Equipment, per day	\$	50.00
Soil Field Screening Equipment, per day	\$	15.00
Soil Sample Kit	\$	15.00
Steam Flow Meter, per day	\$	15.00
Strain Gauge Readout Equipment, per day	\$	50.00
Surface Water Flow Meter, per day, 1/2 day minimum	\$	50.00
Surface Water Quality Monitoring Equipment, per day	\$	50.00
Turbidity Meter, per day	\$	30.00
Vehicle usage, per mile, or \$30/half-day, whichever is greater	\$	0.65

*Specialized and miscellaneous field equipment, at current rates, list available upon request.*

**OTHER SERVICES, SUPPLIES AND SPECIAL TAXES**

Charges for services, equipment, supplies and facilities not furnished in accordance with the above schedule, and any unusual items of expense not customarily incurred in our normal operations, are charged at cost plus 15 percent. This includes shipping charges, subsistence, transportation, printing and reproduction, miscellaneous supplies and rentals, surveying services, drilling equipment, construction equipment, watercraft, aircraft, and special insurance which may be required. Taxes required by local jurisdictions for projects in specific geographic areas will be charged to projects at direct cost.

Per diem may be charged in lieu of subsistence and lodging.

Routinely used field supplies stocked in-house by GeoEngineers, at current rates, list available upon request.

In-house testing for geotechnical soil characteristics at current rates, list available upon request.

**Associated Project Costs (APC)**

Computer hardware and software, telephone and fax communications, printing and photocopying and routine postage via USPS will be charged at a flat rate of 6 percent of labor charges. These charges are labeled as Associated Project Costs (APC).

**All rates are subject to change upon notification.**

## Laboratory Schedule of Charges – 2022

Type of Test	Unit Price
<b>Soil Index and Classification Tests</b>	
Soil Description (ASTM D 2488)	\$ 16
Moisture Content	
Oven (ASTM D 2216)	\$ 22
Moisture/Density (ASTM D 7263, D 2937)	
Rings	\$ 40
Shelby Tubes, waxed chunk	\$ 50
Tubes (liners), chunk	\$ 50
Particle Size Analysis	
Percent Passing No. 200 (ASTM D 1140)	\$ 100
Sieve (ASTM D 422, D 6913, C 136 includes minus 200 Wash, Dry Sieve)	\$ 140
Gravel Sieve (ASTM D 422, D 6913, C 136 includes minus 200 Wash, Dry Sieve)	\$ 210
Hydrometer Only (ASTM D 422, minus #10 fraction)	\$ 170
Combined Sieve and Hydrometer (ASTM D 422-63)	\$ 270
Combined Gravel Sieve and Hydrometer (ASTM D 422-63)	\$ 340
Organic Content (ASTM D 2974)	\$ 80
Specific Gravity (ASTM D 854)	\$ 90
Atterberg Limits (ASTM D 4318)	\$ 200
Organic	\$ 105
Porosity (includes Moisture Content, Dry Density, and Specific Gravity) (ASTM D 7263)	\$ 130
Compaction (ASTM D 698/D 1557, AASHTO T 99/T 180, Methods A, B and C)	
Granular/Cohesive (1 Point)	\$ 120
Granular (4 Point)	\$ 290
Cohesive (4 Point)	\$ 310
Shrinkage Factors of Soils by Wax Method (ASTM D 4943)	\$ 70
<b>Strength and Consolidation Tests</b>	
Triaxial Compression	
Unconfined Comp. Strength – UCS (ASTM D 2166)	\$ 130
Unconsolidated Undrained – UU (ASTM D 2850)	\$ 250
Unconsolidated Undrained (back pressure saturation)	\$ 480
Consolidated Undrained – CU (ASTM D 4767) with pore pressure measurement	\$ 600
Consolidated Drained – CD (Army Corps of Engineers EM 1110-2-1906 Appendix X)	\$ 650
Consolidated Undrained or Consolidated Drained (3 points, staged)	\$ 1,500
Consolidation (ASTM D 2435)	\$ 650
With Reload	\$ 725
With Reload and Unload	\$ 800
Additional timed load increments, each	\$ 75
Constant Rate of Strain Consolidation (ASTM D 4186)	\$ 675
One-Dimensional Swell (ASTM D 4546)	
Method A	\$ 1,200
Method B	\$ 450
Method C	\$ 650
CBR, 1 point with Proctor (ASTM D 1883)	\$ 500
Additional points, each	\$ 150
<b>Corrosion Tests</b>	
Soil Resistivity (ASTM G 187)	\$ 70
pH of Soil (ASTM D 4972 / G 51)	\$ 45
Soluble Sulfates (US EPA 375.4)	\$ 55
Sulfides	\$ 50
Ductile Iron Pipe Research Association 10 Point Soil Evaluation Procedure (ANSI/ANSW C105/A21.5). Includes evaluation of resistivity, pH, Redox potential, sulfides and moisture)	\$ 180

Type of Test	Unit Price
<b>Permeability Tests</b>	
In triaxial cell with back pressure saturation (ASTM D 5084)	\$ 700
<b>Soil Sample Preparation</b>	
Extrusion – Extrude and log (visual classification) Shelby tube sample	\$ 65
Remolding – Remolding a soil sample to desired moisture and density	\$ Hourly
Soil – Cement/Lime Treatment	\$ Hourly - negotiated
<b>Aggregate and Rock Tests</b>	
Specific Gravity, Fine/Coarse Aggregate (ASTM C 127, C 128)	\$ 75/120
Point Load Test or Rock Core (ASTM D5731)	\$ 75

\*Please contact us regarding test procedures which are not listed or for tests on contaminated soils. Negotiated unit rates or hourly rates will be charged for these procedures.

\*\*Not WABO-certified.



## INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**  
FROM: **Hari Ponnekanti, Public Works Director/City Engineer**  
BY: **Adib Altallal, Utilities Engineer**  
CC: **Mayor Allan Ekberg**  
DATE: **August 12, 2022**  
SUBJECT: **Macadam Rd S Water Upgrade & Sidewalk Improvements Project**  
**Project No. 90440105**  
**Construction Contract 22-015, Amendment 1**

### ISSUE

Approve Amendment No. 1 to Contract No. 22-015 with Laser Underground & Earthworks, Inc. for construction of the Macadam Rd S Water Upgrade and Sidewalk Improvements Project.

### BACKGROUND

On January 24, 2022, Council approved the contract with Laser Underground & Earthworks, Inc to complete construction for the Macadam Rd S Water Upgrade and Sidewalk Improvements Project. The project implemented water, street, and sidewalk upgrades simultaneously, reducing construction time along Macadam Road South and providing a multitude of benefits to residents. Benefits of the project included 1) upsizing and looping the water main to provide cleaner and better tasting water; 2) repaving and filling potholes to improve safety, create a smoother ride, and extend the life of the street; 3) creating a seamless sidewalk network and upgrading crosswalks to create a safe and ADA accessible connection from Southcenter Boulevard to S 144<sup>th</sup> street; and 4) increased the number of fire hydrants along Macadam Road South to improve fire flow for potential emergencies. One resident has already reached out and said, “I’m a resident on Macadam Road S. and have been loving the sidewalk improvements happening south of 144th down to Southcenter.”

### DISCUSSION

Project construction costs incurred in July have resulted in a shortfall up to \$300,000. The following items contributed to the overruns:

#### **Flagging (Safety)**

The project bid included costs for two flaggers, which was anticipated to total approximately 1,000 hours for the duration of the project. Due to the heavier-than-expected traffic flow from apartment driveways along Macadam Rd, additional flaggers were dispatched for safety reasons during July, resulting in an **additional 2,025 hours** and extra costs of **\$162,000**.

#### **Alternate Schedule**

Construction projects always include a base bid, and can include an alternative schedule, which is extra work that the City can elect to do on top of a base bid. Typically, both items are awarded together during the bid award phase. For this project, the Project Manager thought the contractor’s original cost estimate of \$1,984,474.81 included both the base bid and alternative schedule, however, it only included the base bid costs. As a result, the base bid and alternative schedule scope language was included in the contract without the additional budget needed for the alternative schedule. This mistake was not identified until mid-July, when then the alternative schedule work took place. At that time, staff became aware of the potential overruns, but didn’t know the extent of the situation until early August, when the pay estimate was received. Since the funds for the alternate schedule were never requested from or authorized by Council, the entire schedule is currently treated as an overrun of **\$67,166.15** in the project budget.

#### **Out of Scope Work**

The last main component that resulted in overruns was due to out of scope work completed by the contractor. The portion of Macadam Road between S 152<sup>nd</sup> Street and Southcenter Boulevard, under the Alternate Schedule mentioned above, included grinding and paving only the east side of Macadam Road (northbound lane). During the grinding process, which took place in

mid-July, the subcontractor misunderstood of the limits and grinded the full width of Macadam all the way to Southcenter Boulevard. At that point, not paving the portion of grinded road was not a feasible option.

The total cost was approximately \$90,000 for the extra grinding and paving that was done out of scope. After a few rounds of negotiation with the contractor, a potential resolution was reached; in which, the contractor will pay for the entire cost of the grinding, and the cost of paving will be split approximately evenly between the contractor and the City, the City's portion of pay will be **\$43,792.00** and benefit by newly paved road for a price well below market value.

**FINANCIAL IMPACT**

The construction associated with the Macadam Water Upgrade is funded through the Macadam Water Upgrade CIP, including savings from design and construction management. The construction bid award also included costs for the sidewalk improvements which were funded by a Transportation Improvement Board grant and general funds from the Macadam Rd Complete Streets project. An additional \$300,000 is needed to pay for the project overruns which can be funded from the water enterprise fund.

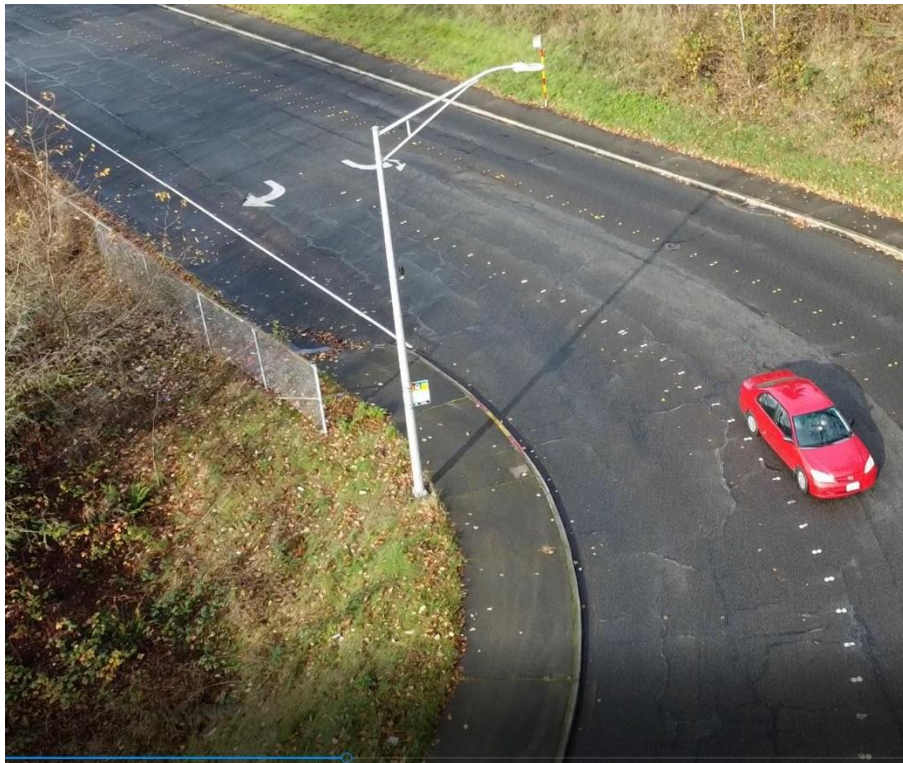
	<u>Cost Estimate</u>	<u>Fund Source</u>	<u>2021-2023 Construction Budget</u>
Original Contract	\$1,984,474.81	Macadam Road CIP	\$ 1,800,000.00
Contingency – 10%	198,447.49	TIB Grant	320,000.00
<b>Overruns</b>	<b><u>300,000.00</u></b>	General Fund	80,000.00
		Water Fund (for overruns)	<u>300,000.00</u>
<b>Total</b>	<b>\$2,482,922.30</b>		<b>\$ 2,500,000.00</b>

**RECOMMENDATION**

Council is being asked to approve Amendment No. 1 to Contract 22-015 with Laser Underground & Earthworks, Inc. in the amount of \$300,000.00 for the Macadam Rd S Water Upgrade and Sidewalk Improvements Project and consider this item on the Consent Agenda at the August 22, 2022 Special Meeting.

**Attachments:** Project Photos  
2021 CIP, Pages 5 & 61

## Project Photos



Macadam Road S./Southcenter Blvd. intersection before construction



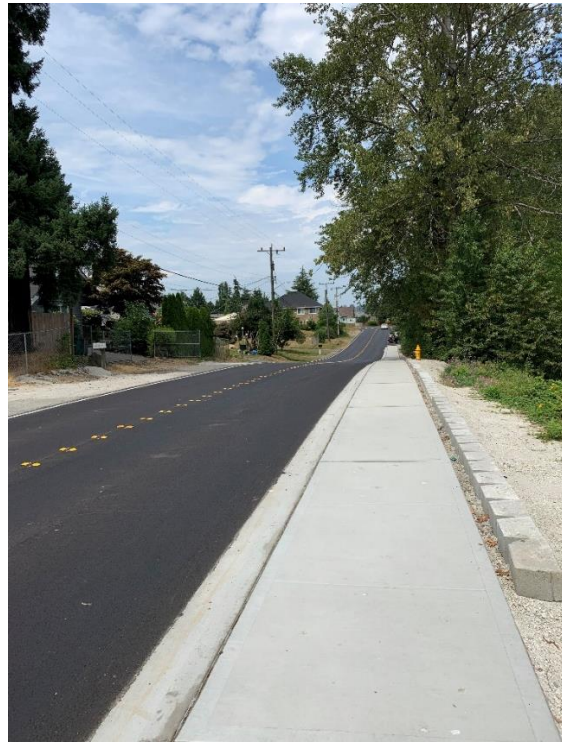
Macadam Road S./Southcenter Blvd. intersection after construction



Macadam Road S. sidewalks during construction



Macadam Road S. looking south after construction



Macadam Road S. looking north after construction

# CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2023 to 2028

**PROJECT:** Macadam Rd South Complete Street

Project No. 91710302

**DESCRIPTION:** Construction of a complete street design for Macadam Rd South between South 144th St and S 150th St. The project will require roadway widening and re-channelization to add 5-foot bike lanes and 5-foot sidewalks on both sides of the roadway, and includes illumination, curb, and storm drainage.

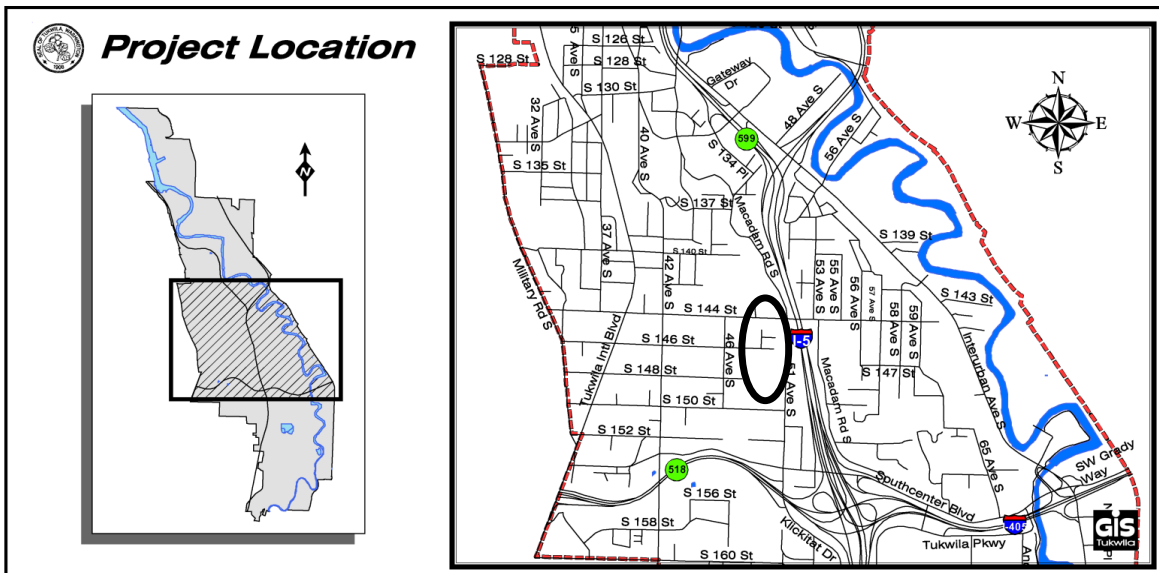
**JUSTIFICATION:** Enhance safety for students walking to Foster High School and Showalter Middle School and encourages transportation choices for the neighborhood.

**STATUS:**

**MAINT. IMPACT:** New sidewalk and pavement will need to be maintained.

**COMMENT:** WSDOT Pedestrian/Bicycle grant submitted in April 2018, but unsuccessful. Match will be the Water Improvements. Apply for same grant in 2020 for design and 2022 for construction.

FINANCIAL (in \$000's)	Through Estimated									
	2021	2022	2023	2024	2025	2026	2027	2028	BEYOND	TOTAL
<b>EXPENSES</b>										
Design				400						400
Land (R/W)				100						100
Const . Mgmt.					400					400
Construction					2,700					2,700
<b>TOTAL EXPENSES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>500</b>	<b>3,100</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,600</b>
<b>FUND SOURCES</b>										
Awarded Grant										0
Proposed Grant				450	2,800					3,250
Mitigation Actual										0
Mitigation Expected										0
City Oper. Revenue	0	0	0	50	300	0	0	0	0	350
<b>TOTAL SOURCES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>500</b>	<b>3,100</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,600</b>





# CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2021 to 2026

**PROJECT:** Macadam Rd S Water Upgrade

Project No. 90440105

**DESCRIPTION:** Design and construct 4,300 LF of 10" waterline in Macadam Rd S from S 144th St to Southcenter Blvd.

**JUSTIFICATION:** Improve fire flow water quality to the north side of Tukwila Hill.

**STATUS:** Project now scheduled for 2021/2022.

**MAINT. IMPACT:** The new waterline will eliminate maintenance time for flushing the dead end line while increasing service reliability.

**COMMENT:** Pedestrian/Bicycle Program grant for sidewalks unsuccessful in 2018, with water funds used as a match.

FINANCIAL (in \$000's)	Through Estimated									TOTAL
	2019	2020	2021	2022	2023	2024	2025	2026	BEYOND	
<b>EXPENSES</b>										
Design	68		100	50	50					268
Land (R/W)										0
Const. Mgmt.			250	50	300					600
Construction			300	300	950					1,550
<b>TOTAL EXPENSES</b>	<b>68</b>	<b>0</b>	<b>650</b>	<b>400</b>	<b>1,300</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,418</b>
<b>FUND SOURCES</b>										
Awarded Grant										0
Proposed Grant										0
Mitigation Actual										0
Mitigation Expected										0
Utility Revenue	68	0	650	400	1,300	0	0	0	0	2,418
<b>TOTAL SOURCES</b>	<b>68</b>	<b>0</b>	<b>650</b>	<b>400</b>	<b>1,300</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,418</b>

