AGENDA

Ad Hoc Franchise Committee Meeting
Thursday, August 1, 2019
6:00 p.m. – 7:00 p.m.
City Hall North Conference Room

1. **Call to Order**
2. **Water District 54 Comprehensive Plan**
3. **Comcast Franchise Renewal**
4. **Recycling Rate Request**

7.11.2019 Enviro Agenda Item #3

KING COUNTY WATER DISTRICT NO. 54

Comprehensive Water System Plan

G&O #18422
May 2019

Gray & Osborne, Inc.

EXECUTIVE SUMMARY

King County Water District 54 operates a water system that serves downtown Des Moines and a portion of the southern portion of Normandy Park. The District supplies unchlorinated groundwater to its customers. The District has a staff of three.

The District was formed in 1935 to serve 300 people and now serves a population of approximately 5,200 on 755 connections. Of those, 102 connections serve 1,630 multi-family units including apartment/condominium buildings with another 158 non-residential connections.

The District is bordered by Puget Sound on the west and Highline Water District on all other sides. Most of the parcels within the District are developed, thus growth in the District is anticipated to be slow, mostly through redevelopment on existing lots. The current number of ERU is anticipated to increase from 2,205 in 2018 to 2,417 in 2039.

The District's source capacity is estimated at 910 gpm. The District has sufficient water rights and pumping capacity to serve the anticipated demand for the 20-year planning period, Table 1.

TABLE E-1

Production and Water Rights

	Production		Water Rights	
Year	Annual (ac-ft/yr)	Maximum Day (gal/min)	Annual (ac-ft/yr)	Instantaneous (gal/min)
2017	368	431	1,319	1,850
2039	433	564		

The quality of the District's water is excellent, with the caveat that manganese is present at the secondary MCL of 0.050 mg/L. Manganese has caused the occasional "brown water" complaint. For a period from 2013 through 2016 the District was required to chlorinate the water as a result of two positive coliform samples one of which was E. coli positive. During this period the brown water complaints increased substantially, from a few per year to a few per week. Since the chlorination ceased the brown water complaints have decreased to pre-chlorination levels.

The District has sufficient storage for the planning period. However, the District's elevated reservoir is in need of substantial maintenance, and should be seismically upgraded. If the District elects to remove the reservoir, in lieu of the maintenance and upgrades, there will be a modest storage deficit which will need to be replaced either by new onsite storage, or storage acquisition from Highline Water District.

The District's distribution system operates in one hydraulic zone. Pressures vary from slightly above 30 psi to over 100 psi along the waterfront. The requisite fire flow is provided throughout the system with the exception of the low pressure area of North Hill and at the end of short cul-de-sacs that have undersized water mains.

Three capital projects are identified which may be paid for out of existing, or anticipated, District reserves without loan funding:

- Replacement of the 8th Avenue South water main;
- Replacement of the 11th Avenue South water main;
- Removal of the elevated reservoir and replacement with a 150,000-gallon low level reservoir.

Unfunded, identified, capital projects include the North Hill Booster station, a new office and water main replacement. In total the identified, unfunded capital projects total to $4,137,000, in 2018 dollars.

The largest challenge facing Water District 54 is its aging infrastructure and obtaining the necessary funding to complete infrastructure repair and upgrade projects.

CHAPTER 9

CAPITAL IMPROVEMENT PROGRAM

INTRODUCTION

This Chapter presents the 10-year and 20-year Capital Improvement Plans (CIP) in accordance with the requirements of WAC 246-290-100. Water system capital improvements have been scheduled and prioritized on the basis of water quality concerns, growth, regulatory requirements, component reliability, system benefit, and financial availability. For the proposed projects indentified in this Chapter, preliminary project cost estimates are presented in Appendix O. A water system base map illustrating the location of the proposed improvement projects is included as Figure 9-1.

Other capital improvement projects may arise in the future that are not identified as part of the District's CIP presented in this Chapter. Such projects may be deemed necessary for ensuring water quality, preserving emergency water supply, accommodating transportation improvements proposed by other agencies, or addressing unforeseen problems with the District's water system. Due to budgetary constraints, the construction of these projects may require that the proposed completion date for projects in the CIP be rescheduled. When new information becomes available, the District retains the flexibility to reschedule proposed projects and to expand or reduce the scope of the projects, as best determined by the District's Commissioners. Additionally, future planning efforts by the City of Des Moines or the City of Normandy Park may affect land use zoning and demand distributions within the District. Road work performed by these agencies may force the District to construct or relocate water mains. Future development may create streets or provide alignments and locations of facilities that are different than shown in the Plan. Each capital improvement project will be reevaluated to consider the most recent planning efforts as the proposed completion date for the project approaches.

PROPOSED IMPROVEMENTS YEAR 0 TO 10

P-1: 8TH AVENUE SOUTH (2019)

The District plans to install a new 8-inch water main under 8th Avenue South from South 233rd Street to South 227th Street 8-inch connections from 8th Avenue to the 12-inch water mains on South 225th Street and South 266th Street. This project is prioritized due to recent water main breaks and concerns regarding the integrity of the pipe. The project includes the installation of approximately 1,400 linear feet of 8-inch water main under 8th Avenue South and approximately 100 lineal feet of 8-inch water main under each of South 225th and South 226th. Services and hydrants will be replaced.

Estimated Project Cost $831,000

P-2: 11TH AVENUE SOUTH

The District plans to replace an existing undersized 6-inch steel water main in the area of 11th Avenue South and South 220th Street. The area near this water main has received a relatively high volume of brown water complaints. This project will consist of an 8-inch ductile iron water main extending south on 11th Avenue South from South 220th Street to South 222nd Street, west on South 222nd Street to 10th Place South, south on 10th Place South to connect with the existing main on South 223rd Street, then continuing south on 11th Avenue South to South 224th Street, and east on South 224th Street to connect at 12th Avenue South. This project will install approximately 1,700 LF of 8-inch ductile iron water main.

Total Project Cost Estimate: $664,000

P-3: ELEVATED RESERVOIR

The District commissioned a report in 2014 to review the maintenance and structural upgrade needs of the elevated reservoir. The report concluded that the reservoir does not meet seismic code and that it needed to be recoated. As an alternative to rehabilitating the reservoir an option was to tear it down and purchase or rent the resulting storage deficit, approximately 150,000 gallons, from Highline Water District. The cost presented includes an assumed present value to rent storage for 20-years from Highline Water. The rental cost will need to be determined based upon a cost analysis study. This project will require specific DOH approval.

Total Project Cost Estimate: $1,033,000

PROPOSED IMPROVEMENTS BEYOND YEAR 10

P-4: NORTH HILL PRESSURE ZONE

The North Hill area of the District currently experiences marginal static pressures during peak hour demands. This is due to the high elevation of this area relative to the District's Elevated Reservoir. The project consists of the installation of two vaults with check valves and a booster pump station to supply domestic pressure. Particulars regarding this project, such as pump sizing, check valve location, and peak hour pressures, will be determined in a predesign report. This project will require specific DOH approval.

Total Project Cost Estimate: $730,000

P-5: NEW OFFICE BUILDING

The District's current office building is reaching the end of its useful life span and is undersized for the needs of the District. This project will replace the office building with a larger one on the same site as the existing office. The current building is 864 square feet. The new headquarters is expected to be approximately 1,200 square feet.

Total Project Cost Estimate: $793,000

P-6: MARINE VIEW DRIVE INTERSECTION CROSSING AT 7TH PLACE SOUTH

The District plans to install a new water main to connect the 12-inch water main that crosses the bridge at the north end of the District with the 12-inch water main that runs down South 216th Street. This project will include 170 linear feet of 12-inch water main directional drilled under the intersection. This project will improve flow availability to the northwest portion of the District.

Total Project Cost Estimate: $215,300

P-7: CLIFF AVENUE SOUTH

The District plans to replace an existing water main along Cliff Avenue South from S 223rd Street and 6th Avenue South to Dock Street. This project will involve the installation of 800 LF of 12-inch ductile iron water main. This project will improve available flow in the Marina area.

Total Project Cost Estimate: $406,000

P-8: RAINBOW LANE

The District plans to replace an undersized water main on Rainbow Lane west of 12th Avenue South. This project will consist of replacing the existing 4-inch AC water main with approximately 350 linear feet of new 8-inch ductile iron water main as well as replacing the fire hydrant. This project will improve flow availability and replace aging pipe.

Total Project Cost Estimate: $189,000

P-9: 226TH PLACE SOUTH

street?

The District plans to replace an undersized water main on 226th Place South east of 10th Avenue South. This project will consist of replacing the existing 4-inch AC water main with approximately 350 linear feet of new 8-inch ductile iron water main as well as

replacing the fire hydrant. This project will improve flow availability and replace aging pipe.

Total Project Cost Estimate: $205,000

P-10: 13TH AVENUE SOUTH

The District plans to replace an undersized water main on 13th Avenue South north of South 216th Street. This project will consist of replacing the existing 4-inch AC water main with approximately 550 linear feet of new 8-inch ductile iron water main as well as replacing three fire hydrants. This project will improve flow availability and replace aging pipe.

Total Project Cost Estimate: $314,000

P-11: SOUTH 229TH STREET

The District plans to replace an undersized water main on South 229th Street east of 12th Avenue South. This project will consist of replacing the existing 4-inch water main with approximately 650 lineal feet of new 8-inch ductile iron water main as well as replacing two fire hydrants. This project will improve flow availability and replace aging pipe.

Total Project Cost Estimate: $303,000

P-12: SOUTH 216TH STREET FROM 1ST COURT SOUTH TO 6TH AVENUE SOUTH

The District plans to replace an undersized water main on South 216th Street from 1st Court South across 1st Avenue South to 6th Avenue South. This project will consist of replacing the existing 6-inch water main with approximately 1,450 linear feet of new 8-inch ductile iron water main as well as replacing four fire hydrants. This project will improve flow availability and replace aging pipe.

Total Project Cost Estimate: $775,000

CAPITAL IMPROVEMENTS PLAN SCHEDULE

A summary of the District's capital improvement projects is provided in Table 9-1. The schedule of proposed capital improvement projects may change due to unforeseen circumstances or funding availability.

TABLE 9-1

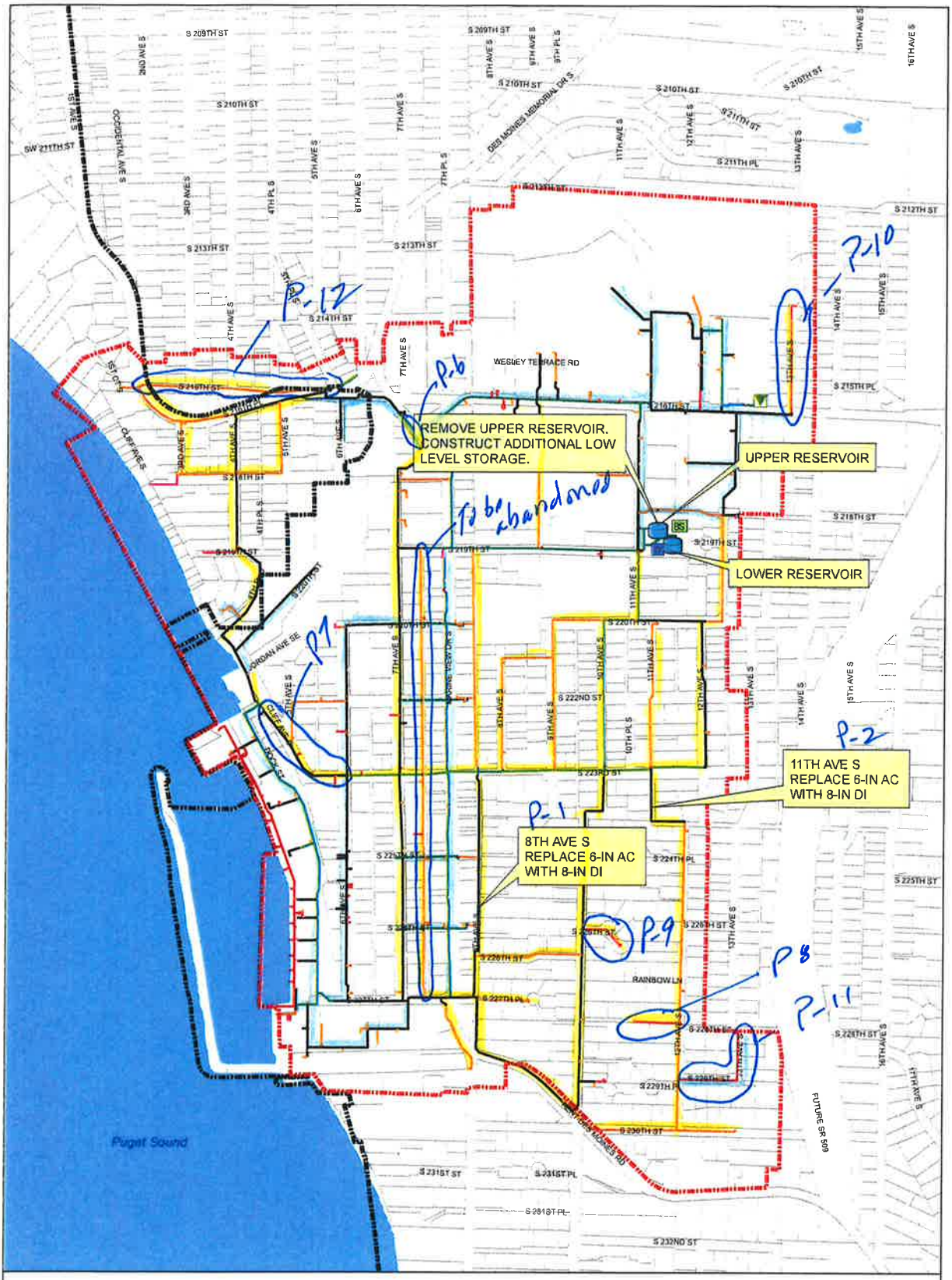
Capital Improvement Plan Summary

Project Number	Project Title	Year to be Completed	Total Estimated 2018 Project Cost
P-1	8th Avenue South – 223rd to 227th	2019	$831,000
P-2	11th Avenue Southeast	2022	$664,000
P-3	Elevated Reservoir	2026	$1,033,000
P-4	North Hill Pressure Zone	2029	$730,000
Projects Past the 10-Year Planning Horizon			
P-5	New Office Building	2031	$1,000,000
P-6	Marine View Drive Int. Crossing at 7th Place South	TBD	$215,000
P-7	Cliff Avenue South	TBD	$406,000
P-8	Rainbow Lane	TBD	$189,000
P-9	226th Place South	TBD	$205,000
P-10	13th Avenue South	TBD	$314,000
P-11	South 229th Street	TBD	$303,000
P-12	South 216th Street from 1st Court to 6th Avenue South	TBD	$775,000
Total			**$6,665,000**

3,258,000

1,000,000

2,407,000



LEGEND

PIPE DIAMETER
- UNKNOWN
- 4-INCH
- 6-INCH
- 8-INCH
- 10-INCH
- 12-INCH
- 14-INCH
- 16-INCH

- BOOSTER STATION
- RESERVOIR
- WELL FIELD
- HIGHLINE WATER DISTRICT INTERTIE
- DISTRICT BOUNDARY
- DES MOINES CITY LIMITS
- PARCELS

N

0 300 600 1,200 Feet

KING COUNTY WATER DISTRICT #54

WATER SYSTEM PLAN
FIGURE 9-1
CAPITAL IMPROVEMENT PLAN

Gray & Osborne, Inc.

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CHAPTER 10

FINANCIAL ANALYSIS

INTRODUCTION

This chapter presents the financial program for the District. This includes the current water rates, historical revenue and expenses and analysis of the District's ability to meet future operating expenses and fund water improvements outlined in the previous chapters.

FINANCIAL STATUS OF EXISTING WATER UTILITY

CURRENT WATER RATES

The District's water rates are based upon customer class and meter size. The monthly bill includes a base rate and a seasonal consumption rate. The base rates, effective January 1, 2019, are given in Table 10-1. The base rate increased by $1.75 per 5/8" x 3/4" meter over 2018. The Capital Facility Charge did not increase. The seasonal consumption rates are given in Table 10-2.

TABLE 10-1

Monthly Rates

Customer Class	Meter Size	Base Rate 2019	Capital Facility Charge 2019
Residential	5/8" or 3/4"	$13.90	$6.50
	1"	$14.40	$10.50
Multi-Family (Per Unit)	Varies	$13.90	Varies(1)
Non-Residential	5/8" or 3/4"	$37.04	$10.50
	1"	$38.41	$18.00
	1-1/2"	$62.84	$35.00
	2"	$110.75	$56.00
	3"	$199.20	$112.00
	4"	$371.19	$175.00
	6"	$739.74	$350.00
	8"	$1,231.14	

(1) Depends on meter size.

TABLE 10-2

Seasonal Water Rates

Consumption Rate	Dates	Rate per 100 Cubic Feet 2011
Summer Water Rates	5/1 through 10/31	$4.10
Winter Water Rates	11/1 through 4/30	$3.80

Water consumption rates increase by 30¢ per CCF during the summer period.

GENERAL FACILITY CHARGE

New customers are required to pay fees to offset the costs to the utility of extending service to the new customer and to cover a new connection's fair share of existing facilities, as well as future improvements. The District general facility charge is $4,000 per equivalent residential unit (ERU).

FINANCIAL ANALYSIS

This section reviews past revenues and expenses in order to analyze the health of the existing system and to provide estimates of the baseline cash flows for the budget projection.

HISTORICAL OPERATING REVENUES AND EXPENSES

This section presents historical operating revenues and expenses from the year 2014 through 2018. This historical data is shown in Table 10-3. Only historical operating cash flows are considered when evaluating the health of the system because operating revenues and expenses occur annually and are expected to continue. Historical capital revenues and expenses are not indicative of future capital cash flows. Therefore, the health of a utility is primarily judged on the ability of monthly rates to fund annual operation and maintenance (O&M) expenses and debt service.

HISTORICAL REVENUE

The District collects the majority of its revenue from water sales. The revenue provides the base revenue for the operation and maintenance of the system. Water use is billed utilizing both a base rate and volume charge (Tables 10-1 and 10-2). The volume charge increases in the summer relative to the winter.

Water utility operating revenues for the years 2014 through 2018 indicate a gross income of approximately $880,000 per year. Historical revenue and expense varies from year to year, Table 10-3. Revenue generated from the Capital Facility Charge component of

TABLE 10-5

Projected Operations (Cash) Fund

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Assumed Rate Increase (Vol & Base)	10.0%	8.0%	5.0%	5.0%	4.0%	4.0%	4.0%	3.0%	3.0%	3.0%
Start of Year	**$556,932**	**$521,498**	**$469,233**	**$442,287**	**$471,035**	**$518,878**	**$562,009**	**$626,574**	**$674,621**	**$731,421**
Revenue										
Rates	$900,000	$978,300	$1,031,715	$1,087,944	$1,136,248	$1,186,698	$1,239,268	$1,279,793	$1,321,642	$1,364,859
Other	$129,847	$114,980	$117,802	$120,694	$123,657	$126,693	$129,804	$132,992	$136,258	$139,604
Expense										
O&M	($398,000)	($408,725)	($419,741)	($402,597)	($413,509)	($424,719)	($436,235)	($448,066)	($460,221)	($472,709)
Admin	($397,280)	($411,330)	($425,783)	($440,781)	($456,346)	($472,499)	($489,266)	($506,670)	($524,739)	($543,498)
Net Revenue	($234,567)	($273,225)	($303,993)	($365,259)	($390,051)	($416,173)	($443,572)	($458,048)	($472,940)	($488,257)
Transfer to Capital and Bond	($270,000)	($325,490)	($330,939)	($336,511)	($342,208)	($373,042)	($379,008)	($410,001)	($416,139)	($422,427)
Net Revenue, Incl Transfer	($35,433)	($52,265)	($26,947)	$28,748	$47,843	$43,131	$64,564	$48,047	$56,801	$65,831
Year End Cash Balance	**$521,498**	**$469,233**	**$442,287**	**$471,035**	**$518,878**	**$562,009**	**$626,574**	**$674,621**	**$731,421**	**$797,252**

TABLE 10-6

Projected Capital Fund

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Start of Year	**$763,530**	**$279,236**	**$511,267**	**$730,741**	**$221,489**	**$449,699**	**$707,775**	**$970,475**	**$1,255,022**	**$146,400**
Revenue										
Transfer from Operations	$200,000	$205,000	$210,125	$215,378	$220,763	$226,282	$231,939	$237,737	$243,681	$249,773
General Facility Charge	$288,933	$62,296	$40,757	$40,357	$39,957	$39,557	$39,158	$25,029	$24,941	$24,852
Capital Facility Charge on Bills	$70,000	$70,490	$70,814	$71,133	$71,446	$71,760	$72,069	$72,263	$72,459	$72,654
Miscellaneous Income	$22,500	$22,500	$22,500	$22,500	$22,500	$22,500	$22,500	$22,500	$22,500	$22,500
Expense										
Capital Expense	($810,000)			($732,932)					($1,290,075)	$0
Debt Payment	($235,727)	($158,255)	($154,722)	($155,689)	($156,456)	($157,023)	($157,965)	($152,982)	($146,400)	($146,400)
Net Revenue	($484,294)	$232,031	$219,474	$509,253	$228,210	$258,076	$262,700	$284,547	$992,896	$303,379
End of Year Balance	**$279,236**	**$511,267**	**$730,741**	**$221,489**	**$449,699**	**$707,775**	**$970,475**	**$1,255,022**	**$262,127**	**$565,506**

KING COUNTY WATER DISTRICT 54 WATER SYSTEM PLAN

CITY OF DES MOINES
CITY COUNCIL ENVIRONMENT COMMITTEE

JULY 11, 2019

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1

KING COUNTY WATER DISTRICT NO. 54 WATER SYSTEM PLAN

- PLANNING
- WATER QUALITY
- HYDRAULICS
- WATER USE EFFICIENCY
- CAPITAL IMPROVEMENT PLAN
- FINANCES

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ZONING – DES MOINES AND NORMANDY PARK

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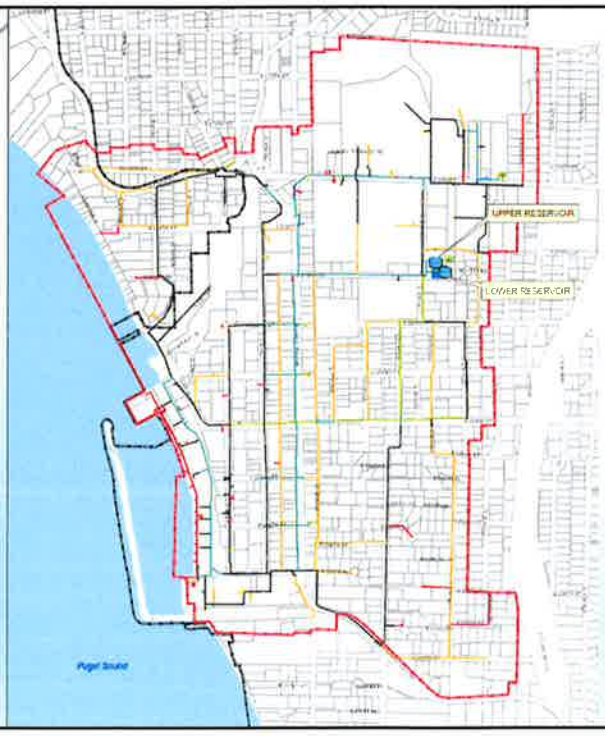

WD 54 MAJOR FACILITIES AND WATER MAINS

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CURRENT SYSTEM

WELLFIELD & RESERVOIRS LOCATED ADJACENT TO CITY PUBLIC WORKS

- 3 WELLS – 950 GPM MAX RATE
- WATER RIGHT Q_i = 2,025 GPM; Q_a = 1,256 AC-FT/YR
- 2 RESERVOIRS – 910,000 GALLONS
- 1 BOOSTER STATION – PROVIDES 3,500 GPM FIRE FLOW PLUS SYSTEM DEMAND

WATER MAIN – 14 MILES

756 CONNECTIONS

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POLICIES/RESOLUTIONS

- BEST MANAGEMENT PRACTICES – 2016
- EMERGENCY RESPONSE – 2016
- CROSS CONNECTION CONTROL - 2015
- DESIGN AND CONSTRUCTION STANDARDS - 2016
- METERING
- COLIFORM MONITORING - 2018
- DEVELOPER EXTENSION AGREEMENTS - 2000

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PLANNING DATA

- POPULATION
  - CURRENT
  - FUTURE
  - GROWTH RATE
- WATER DEMAND
- EQUIVALENT RESIDENTIAL UNITS (ERU)

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HISTORICAL INFORMATION

YEAR	CONNECTIONS	RESIDENTIAL UNITS [1]	POPULATION [2]	TOTAL ANNUAL PRODUCTION (GAL)	MAXIMUM DAY DEMAND (GPM)
2012	752	2,009	5,133	121,116,000	483
2013	752	2,009	5,131	120,456,000	415
2014 [3]	755	2,012	5,105	-	-
2015	755	2,012	5,063	123,434,908	442
2016	755	2,012	5,010	120,382,032	441
2017	755	2,012	4,958	120,909,752	397

1 – Includes multi-family units served from one connection.
2 – Population decline based upon PSRC data showing declining number of people/household.
3 – Well 6 source meter not working properly.

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CUSTOMER DEMAND

	SINGLE FAMILY	MULTI FAMILY	NON-RESIDENTIAL	BULK	OTHER AUTHORIZED	DSL	
2012	24%	45%	23%	0.09%	1.65%	6%	100%
2013	24%	43%	24%	0.11%	4.15%	5%	100%
2014 [1]							
2015	24%	45%	23%	0.05%	5.67%	2%	100%
2016	24%	41%	24%	0.05%	7.48%	4%	100%
2017	23%	38%	26%	0.08%	5.79%	7%	100%

1 – Well 6 source meter not working properly.

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EQUIVALENT RESIDENTIAL UNIT

YEAR	SINGLE-FAMILY RESIDENTIAL CONSUMPTION (GPD)	SINGLE-FAMILY RESIDENTIAL CONNECTIONS	CONSUMPTION PER ERU (GPD)		CONSUMPTION PER MULTI-FAMILY UNIT (GPD)
2012	78,733	492	160		99
2013	78,314	492	159		94
2014	77,830	495	157		96
2015	82,198	495	166		99
2016	79,020	495	160		90
2017	77,439	495	156		83
MEAN			**160**		**94**

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TOTAL ERU

YEAR	SFR	MFR	Non-Res	BULK	OTHER AUTHORIZED	DSL	TOTAL
2012	492	937	474	2	34	128	2,196
2013	492	893	505	2	86	94	2,168
2014 [1]	495	926	508	1	122	-	-
2015	495	908	473	1	115	45	2,081
2016	495	851	488	1	154	72	2,133
2017	495	808	550	2	123	140	2,258
MEAN							2,167

1 – Well 6 source meter not working properly.

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PROJECTED WATER DEMAND

	POPULATION	ERU	AVERAGE DAY DEMAND		MAXIMUM DAY DEMAND
			GPD	GPM	GPM
2012-2017	5,067	2,167	331,857	230	436
2018	5,369	2,215	354,347	246	517
2019	5,409	2,231	356,988	248	521
2020	5,447	2,247	359,491	250	524
2021	5,472	2,257	361,129	251	527
2022	5,496	2,267	362,750	252	529
2023	5,521	2,277	364,356	253	531
2024	5,545	2,287	365,945	254	534
2029	5,629	2,322	371,520	258	542
2039	5,962	2,459	393,508	273	574

Peaking Factor
MDD/ADD
2.10

Population
Growth Rate
~ 0.4%/yr

Adriana added
in 2018

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WATER QUALITY

WATER QUALITY CONTINUES TO BE EXCELLENT

- MEETING ALL WATER QUALITY REGULATIONS
- CONTINUES TO BE UNCHLORINATED
- NO BACTERIOLOGICAL POSITIVE TESTS SINCE 2013
- INORGANIC CONSTITUENTS ARE LOW WITH THE EXCEPTION OF MANGANESE
  - MANGANESE AT THE WELLS IS AT 0.05 TO 0.06 MG/L
  - SECONDARY MCL AT 0.05 MG/L - AESTHETICS
- LEAD & COPPER MEET ALL REGULATIONS

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RECOMMENDED/REQUIRED SYSTEM MINIMUM

	Required	Recommended	Meets standards
Source	Meet MDD with all sources and storage	Meet max day with 18 hours of pumping.	Yes
		Meet Ave Day Demand with largest source out of service	Yes
		Booster Station & Wells have redundant power	Yes
Storage	Provide operational, equalizing, standby and fire suppression storage	Same	Yes - a slight deficit predicted in 2038.
Distribution	30 psi min Peak Hour	Same	Yes – though some areas have pressure marginally above 30 psi.
	20 psi Fire Flow: 1,000 gpm residential 3,500 gpm downtown	Same	No - North Hill Yes - Downtown

Note: District also has intertie with Highline which can provide all domestic flow. Fire flow is provided but the 20 psi criteria is not met in the North Hill area, nor along the high area on 11th Ave S.

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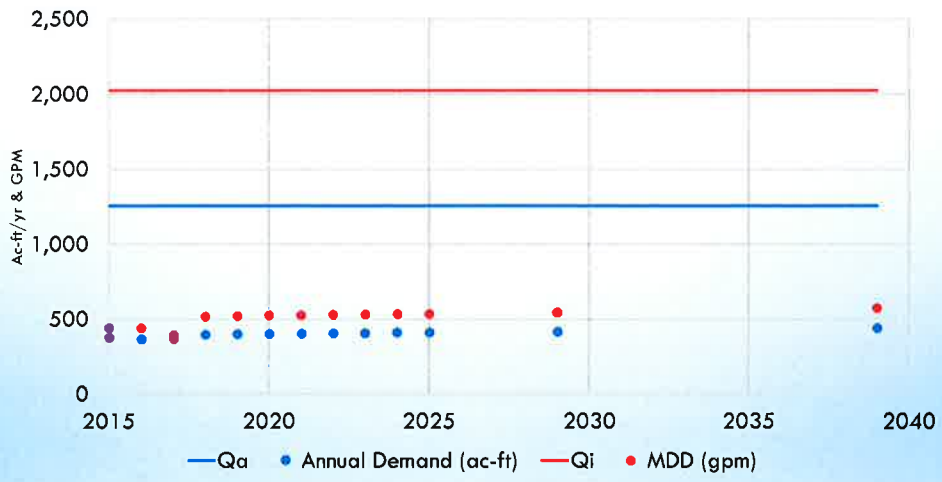
DEMAND & WATER RIGHTS



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WATER USE EFFICIENCY

Requirement	Deadline	District Status
Install Source Meters	January 22, 2007	In Compliance
Include WUE in Planning Documents	January 22, 2007	In Compliance
Set WUE Goals	July 1, 2008	In Compliance
Submit first annual WUE Report	July 1, 2008	In Compliance
Submit Service meter installation schedule	July 1, 2008	In Compliance
Meet DSL Standard of < 10% (WD 54 @ 4.1%)	July 1, 2010	In Compliance
Complete installation of all service meters	January 22, 2017	In Compliance

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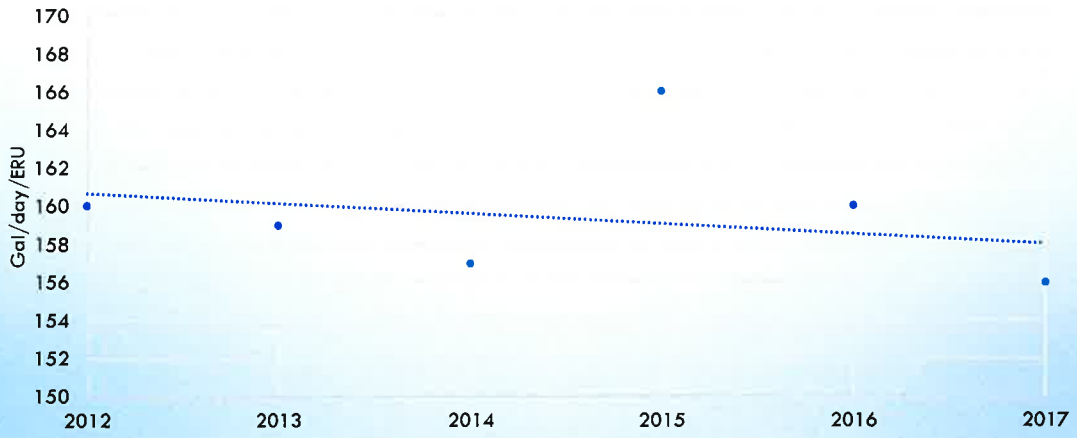
CONSUMPTION PER ERU



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GOAL SETTING

- SINCE 2012 ERU USE HAS DROPPED ABOUT 0.5 GPD/ERU
- GOAL – MAINTAIN ANNUAL CONSUMPTION BY AT 160 GPD/ERU OR BELOW
- GOAL – REDUCE MAX DAY AND SUMMER DEMAND PEAK RELATIVE TO AVERAGE DAY
- METHODS TO LOWER USE
  - LOW DSL
  - EDUCATION
  - LEAK DETECTION
  - CONSERVATION PRICING OPTIONS - CURRENT IS WINTER & SUMMER RATES
    - TIERED BLOCK RATE STRUCTURE
    - ADJUST BLOCKS

DRAFT

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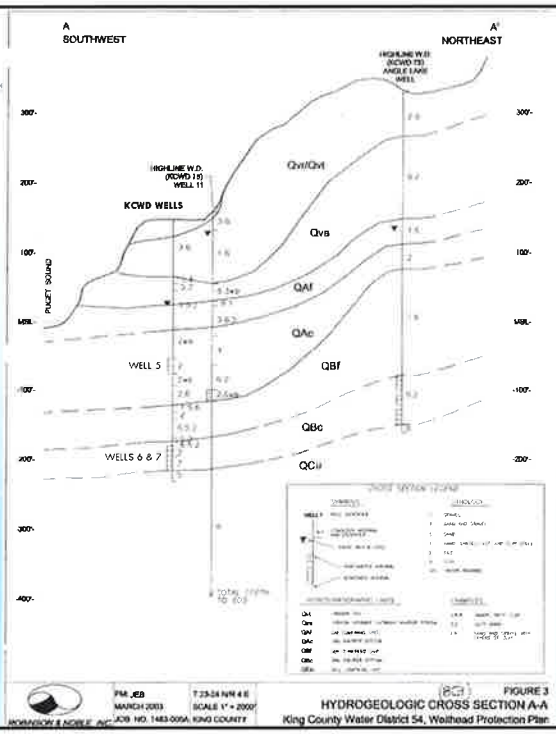
SOURCE PROTECTION

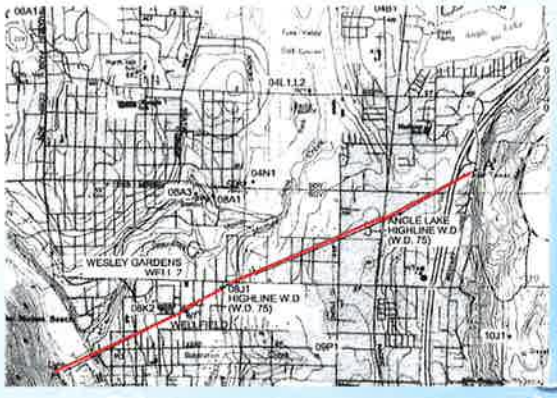
- JOINT EFFORT BY CITY AND DISTRICT
- WINDSHIELD SURVEY AND DISCUSSIONS WITH BUSINESSES AFTER 2013 COLIFORM INCIDENT
- DATA BASE REVIEW AS A PART OF THIS WSP
- ONGOING VIGILANCE
- LAND USE CONTROLS

DRAFT

19



HYDROGEOLOGIC MODEL



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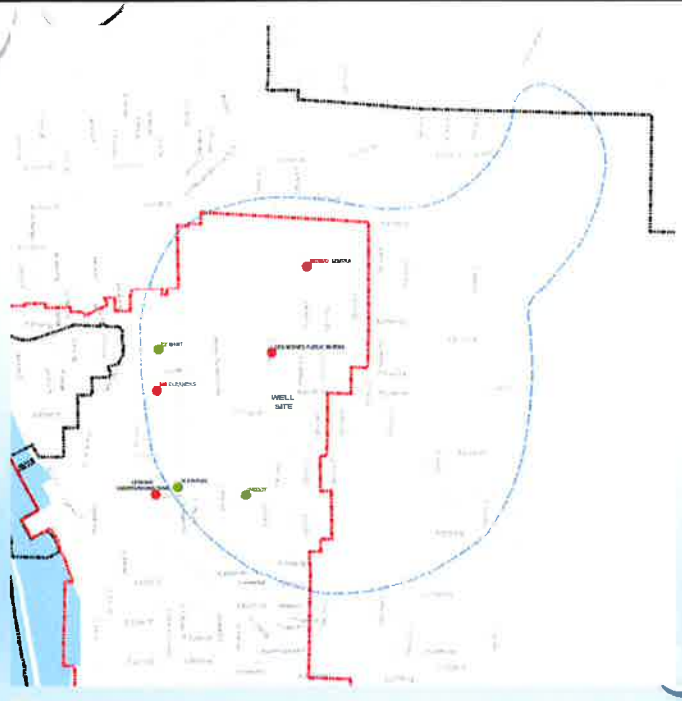
20



WELLHEAD PROTECTION AREA 1-YEAR

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O&M

- PRE SAMPLE FLUSHING & SAMPLING
- HPC SAMPLING
- COLIFORM SAMPLING - ONCE/MONTH 6 SAMPLES
- EMERGENCY RESPONSE – COLIFORM, LESSONS LEARNED
- BEST MANAGEMENT PRACTICES
- CROSS CONNECTION PROGRAM – ANNUAL RENEWAL
- METER READING
- DESIGN STANDARDS
- CONSTRUCTION INSPECTION

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CAPITAL IMPROVEMENT PLAN

Project Number	Project Description	Pipe Size (inches)	Pipe Length (feet)	Year to be Completed	Total Estimated Cost
1	8th Ave S - 223rd to 227th	8	1640	2020	$831,000
2	11th Avenue Southeast	8	1700	2022	$664,000
2	Elevated Reservoir	N/A	N/A	2027	$1,033,000
3	North Hill Pressure Zone	N/A	N/A	2029	$730,000
5	New Office Building	N/A	N/A	2031	$793,000
6	Marine View Drive Int Crossing at 7th Pl S	12	170		$215,000
7	Cliff Avenue South	12	800		$406,000
8	Rainbow Lane	8	350		$189,000
9	226th Place South	8	350		$205,000
10	13th Avenue South	8	550		$314,000
11	South 229th Street	8	650		$303,000
12	South 216th Street from 1st Court to 6th Avenue South	8	1450		$775,000
				Total:	$5,627,000

COST IN 2018 DOLLARS

DRAFT

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PROJECTED RESERVES

Projection Factors	
COLA	3.0%
Loan Int	N.A.
Int on Balance	2%
Taxes	4.0%
Insurance	6.0%
Inflation	2.5%
R & G	Varies

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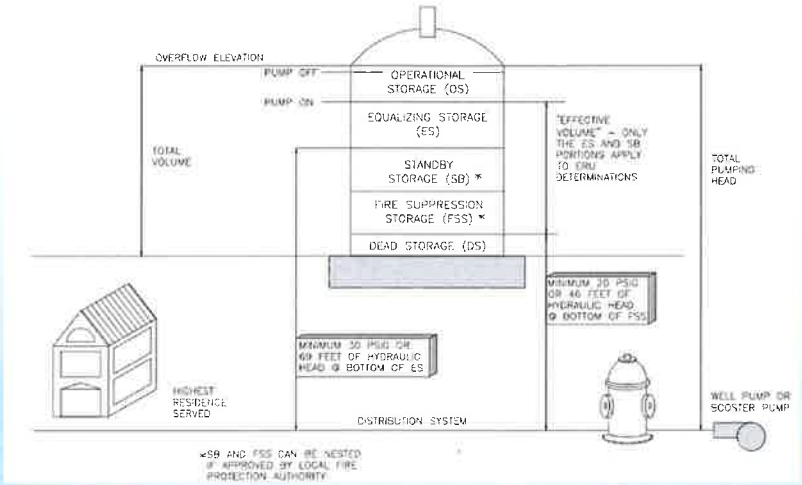
STORAGE COMPONENTS



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Timothy A. George, City Attorney
21630 11th Avenue So., Suite C
Des Moines, WA 98198
206.870.6553
Fax: 206.870.6872

Memo

Date: July 25, 2019

To: Ad Hoc Franchise Committee

From: Tim George, City Attorney

Re: Comcast Franchise Renewal

City staff has recently initiated negotiations with Comcast for a franchise agreement renewal. The existing agreement was approved in 2003 and remains in effect until a new agreement is approved. The draft document that is being included in the packet is modeled after a franchise agreement that the City of Auburn and Comcast recently negotiated. Some key issues specific to Des Moines that need to be addressed in the renewal have been identified as:

1. Provide for a HD public access channel – Channel 321.
2. Install cable service at the Senior Center (estimated cost $15,000).
3. Require excellent customer service and options to ensure accessibility for those with disabilities/impairments.
4. Any other areas of emphasis from Committee?

In general, the draft agreement is similar to the existing franchise agreement. The key terms are discussed below.

1. Term: 10 year term.
2. Franchise fees: 5% of gross revenues. (Consistent with current fee and max allowed under federal law).
3. Indemnification/Insurance: Consistent with prior franchise and sufficient to cover foreseeable events.
4. Relocation and Undergrounding: Consistent with state law and prior franchise.

5. Performance and customer service: City can hold performance evaluation session in a public meeting to consider compliance with federal laws and franchise. Additionally, Comcast will provide annual written report showing customer complaints and resolutions. Comcast will also provide a customer service phone number for the City to place on our website.

An additional item that needs to be negotiated is the amount of Public Access Capital Contributions Comcast will agree to collect on our behalf. In the previous franchise, Comcast paid the City $140,000 upfront for equipment costs but did not make any payments since. They have moved from that upfront model to a pay per month model for their customers. The highest they will go is $0.35 per month however they are pushing back on getting close to that amount as a result of Des Moines' relatively high cable utility tax rate (10%). Our goal would be to negotiate an amount that would be cover our anticipated capital improvements needed to ensure high quality audio/video for channel 21/321.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, TO APPROVE THE FRANCHISE AGREEMENT BETWEEN THE CITY OF DES MOINES AND COMCAST CABLE COMMUNICATIONS MANAGEMENT, LLC, A PENNSYLVANIA CORPORATION

WHEREAS, Comcast Cable Communications Management, LLC ("Comcast") has applied to the City of Des Moines ("City") for renewal of a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, the City is authorized by Revised Code of Washington 35A.47.040 and Des Moines City Code (DMCC) 13.36.010 *et seq*. and DMCC 20.06.010 to grant a non-exclusive franchise for the use of public streets, bridges, or other public ways for the transmission and distribution of electrical energy, signals and other methods of communication, including cable telecommunications and cable television; and

WHEREAS, following proper notice, the City Council held a public hearing on Comcast's request for a Franchise, at which time representatives of Comcast and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Comcast.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DES MOINES WASHINGTON, DO ORDAIN as follows:

1. The City grants a Cable Television Franchise to Comcast Cable Communications Management, LLC.

2. The Mayor is authorized to sign a Franchise Agreement in substantially the same form as the Agreement attached as Exhibit A.

PASSED: _____

APPROVED: _____

_____
NANCY BACKUS, MAYOR

ATTEST:

_____
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

_____
Steven L. Gross, City Attorney

Published: _____

CABLE FRANCHISE AGREEMENT

Between the City of Des Moines, Washington, and Comcast Cable Communications Management, LLC d/b/a Comcast.

This Cable Franchise Agreement ("Franchise") is made and entered into by and between The City of Des Moines, Washington, a municipal corporation (City), and Comcast Cable Communications Management, LLC d/b/a Comcast, a Pennsylvania corporation (collectively, "Grantee"). The City and Grantee are sometimes referred to hereinafter collectively as the "Parties."

WHEREAS, the City is authorized by 47 USC § 541 *et seq.*, RCW 35A.47.040, DMCC 20.06.010 and DMCC Chapter 13.36 to grant and renew nonexclusive cable franchise agreements for the installation, operation, and maintenance of cable television systems and otherwise regulate cable communications services within the City's incorporated boundary; and

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

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

WHEREAS, the Mayor and City Council has determined that is in the best interests of, and consistent with, the health, safety, and welfare of the citizens of the City to grant a franchise to Grantee to use public rights-of-way for the purposes specified in this Franchise and on the terms and conditions set forth herein.

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

SECTION 1: PRINCIPLES AND INTENT OF THE CITY

The following provisions are statements of the City's intent in entering into this Franchise, but do not necessarily reflect Grantee's intent and shall not supplant or modify specific provisions of the Franchise:

1.1. Ensure that the City stays at the forefront of cable service by keeping the Cable System up to date with features meeting the current and future cable-related needs and interests of the community;

1.2. Encourage the widest feasible scope and diversity of Programming and other services to all City residents consistent with community needs and interests;

1.3. Encourage competitive, affordable, and equal access to advanced communications services of all kinds to residents and businesses of the City on a non-discriminatory basis;

1.4. Ensure that City residents have the opportunity to view public, educational, and governmental Programming;

1.5. Ensure that rates and charges for cable Programming, equipment, and services provided over the Cable System are affordable and consistent with federal standards;

1.6. Ensure that the City residents receive high quality customer service;

1.7. Ensure that the City receives appropriate compensation for the use of its facilities and property and that installation and maintenance of cable Facilities comply with all applicable City regulations, and do not interfere with the City's legitimate use of its own facilities and property;

1.8. Encourage competition among Cable Operators and between Cable Operators and other providers of communications services;

1.9. Protect the City's interests and the health, safety, and welfare of its residents; and

1.10. Provide for timely mandatory Government Access to all Cable Systems in times of civil emergency.

SECTION 2: DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, and their derivations shall have the meanings given below unless the context clearly mandates a different interpretation. Where the context so indicates, the present tense shall imply the future tense, words in plural include the singular, and words in singular include the plural. The word “shall” is always mandatory, not merely directory, and the word “may” is discretionary. In the event that the meaning of any word or phrase not defined in this Section is uncertain, the definitions contained in FCC rules and regulations shall apply.

2.1 “Access” means the availability for Non-Commercial use by various governmental and educational agencies, institutions, and organizations in the community, including the City and its designees, of a particular Channel on the Cable System to distribute programming to Subscribers, as permitted under applicable law.

A. “Educational Access” means Access where Schools are the primary users having editorial control over programming and services.

B. “Government Access” means Access where governmental institutions or their designees are the primary users having editorial control over programming and services.

C. "Public Access" means Access for the public, including organizations, groups and individuals.

2.2 “Access Channel” means any Channel or portion of a Channel on a Cable System required by the Franchise to be set aside by the Grantee for public, education, or governmental use.

2.3 “Affiliated Entity” means, when used in connection with Grantee, any Person who owns or controls, is owned by or controlled by, or is under common ownership or control with Grantee.

2.4 "Basic Service" means the lowest Tier of Cable Service that includes, at a minimum, the retransmission of local television broadcast signals.

2.5 “Cable Act” shall mean the Communications Act of 1934, including the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, any and amendments thereto.

2.6 "Cable Operator" means any Person or group of Persons (A) who provides Cable Services over a Cable System and directly or through one or more affiliates owns a significant interest in such Cable System, or (B) who otherwise controls or, through any arrangement, is responsible for the management and operation of such a Cable System.

2.7 “Cable Service” means

A. The one-way transmission to Subscribers of (1) Video Programming or (2) other Programming service, and

B. Subscriber interaction, if any, that is required for the selection or use of such Video Programming or other Programming service.

2.8 “Cable System” means Grantee’s Facilities within the Franchise Area, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service, which includes Video Programming, and which is provided to multiple Subscribers within a community, but such term does not include:

A. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

B. A facility that serves Subscribers without using any public right-of-way;

C. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. § 201 *et seq*.), except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. 541(c))

to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

D. An open video system that complies with 47 U.S.C. § 573; or

E. Any facilities of any electric utility used solely for operating its electric utility systems.

2.9 "Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel, whether delivered in an analog or digital format.

2.10 "City Council" means the legislative body of the City of Des Moines.

2.11 “Complaint” means a Subscriber’s verbal or written contact with the Grantee to express a grievance or dissatisfaction concerning Cable Service that are not within the regulatory control of the City and does not include issues that are promptly resolved to the Subscriber’s satisfaction.

2.12 “Designated Access Provider” means the entity or entities designated by the City to manage or co-manage the Access Channel and facilities, and may include the City as a Designated Access Provider.

2.13 "Demarcation Point" means the physical point at which the Cable System enters a Subscriber's home or building.

2.14 "Document" or "Records" means written or graphic materials, however produced or reproduced, or any other tangible permanent documents, including those maintained by computer or other electronic or digital means, maintained by the Grantee in the ordinary course of conducting its business.

2.15 "Dwelling Unit" means any building, or portion thereof, that has independent living facilities, including provisions for cooking, sanitation and sleeping, designed for residential occupancy.

2.16 "Effective Date" means the Effective Date of this Franchise pursuant to subsection 3.4.

2.17 “Facility” means any distribution or component of the Cable System.

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

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

2.20 "Franchise Fee" means consideration paid by Grantee for the privilege to construct and/or operate a Cable System in the Franchise Area as set forth in accordance with Section 622 of the Cable Act.

2.21 "Gross Revenues" means, for purposes of Franchise Fee calculations, all revenue received by the Grantee, in whatever form and from all sources, derived from the operation of the Grantee's Cable System to provide Cable Services, in the Franchise Area.

A. Gross Revenues include, by way of illustration and not limitation, monthly fees charged to Subscribers for Cable Services, including Basic Service and all other Tiers of Cable Service, Pay-Per-View Service, Cable Service installation, disconnection, change-in-service and reconnection fees, Leased Access Channel fees, late fees, payments received by Grantee from programmers for carriage of Cable Services on the Cable System and recognized as revenue under generally accepted accounting principles (GAAP), revenues from rentals of Cable System equipment such as converters, advertising revenues, advertising sales commissions if recognized as revenue under GAAP, additional outlet fees, Franchise Fees, and revenues from home shopping Channels.

B. Gross Revenues shall not include Bad Debt, provided that all or part of any such Bad Debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected, or revenues received from telecommunications services.

C. Gross Revenues shall be determined without deduction for (1) any operating expense; (2) any accrual; or (3) any other expenditure, regardless of whether such expense, accrual or expenditure reflects a cash payment, and revenue shall be counted only once in determining Gross Revenues.

D. Gross Revenues also does not include capital contributions, taxes on services furnished by Grantee which are imposed directly on any Subscriber or user by the State, City or other governmental unit and which are collected by Grantee on behalf of said governmental unit, excluding Franchise Fees.

E. This definition shall be construed so as to include all Gross Revenues to the maximum extent permitted by federal and State law, except to the extent specifically excluded in this subsection, and encompasses revenues that may develop in the future, whether or not anticipated.

F. If a statutory change in State or federal law, or a decision of the FCC or a court of competent jurisdiction expands the categories of revenue available to the City for the Franchise Fee assessment beyond those permitted under this definition as of the Effective Date, that change shall automatically be included in the definition of Gross Revenues under this Franchise, provided that the City imposes the same requirement upon any other similarly situated multichannel video provider over which the City has jurisdiction and authority to impose such fees.

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

2.23 "Leased Access Channel" means a Channel or portion of a Channel made available by Grantee for Programming by others for a fee.

2.24 "Liquidated Damages" means any requirement imposed on the Grantee to pay specified sums to the City as a result of performance deficiencies and/or Franchise violations, as described in Section 13.8.

2.25 "Non-Cable Services" means any service that is distributed over the Cable System, other than a Cable Service.

2.26 "Normal Business Hours" means those hours during which most similar businesses in the community are open to serve customers.

2.27 "Normal Operating Conditions" means service conditions within the control of the Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual-weather conditions. Those conditions that are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or Upgrade of the Cable System.

2.28 "Parent Corporation" means any existing or future corporation, entity, or Person with greater than fifty percent (50%) ownership or control over Grantee.

2.29 "Pay-Per-View" service means programming offered on a per-program or per-event basis for which a separate fee is charged.

2.30 "PEG Access" means Public Access, Educational Access, and Government Access, jointly or severally.

2.31 "Person" means any individual, partnership, association, joint stock company, trust, corporation or governmental entity.

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

the Franchise Area for the purpose of utility or public service use dedicated for compatible uses.

2.33 "School" means any State accredited public educational institution including, for example, primary and secondary Schools (K-12).

2.34 "State" means the State of Washington.

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

2.36 "Tier" means a group of Channels for which a separate periodic rate is charged.

2.37 "Video Programming" means programming provided by, or generally considered comparable to programming provided by television broadcast station.

SECTION 3: GRANT OF FRANCHISE

3.1 Grant of Franchise

A. The City hereby grants to Grantee a nonexclusive Franchise authorizing Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under or in any Right-of-Ways within the Franchise Area for the purpose to install such wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment and to use existing poles as may be necessary or appurtenant for the deployment of Cable Services over the Cable System. This Franchise is subject to and shall be governed by all applicable provisions now existing or hereafter amended of federal, State and local laws and regulations, except as specifically provided for within this Franchise.

B. This Franchise expressly authorizes Grantee to provide only Cable Services as allowed by applicable law, and to construct, operate, or maintain Cable System facilities in the Franchise Area. This Franchise is not a bar on Grantee's provision of non-Cable Services. This Franchise does not relieve Grantee of any obligation it may have to comply with any local, state or federal requirements that lawfully apply to non-cable services.

C. This Franchise shall constitute both a right to provide the Cable Services required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

D. Grantee guarantees, as a condition of exercising the privileges granted by this Franchise, that any Affiliated Entity of the Grantee directly involved in the offering of Cable Service in the Franchise Area, will also comply with the obligations of this Franchise.

E. Unless otherwise stated in this Franchise, in the event of a conflict between the DMCC and this Franchise, this Franchise shall control, and shall not be unilaterally altered by the City through subsequent ordinance, regulation, resolution, or other enactment of the City, except within the lawful exercise of the City's police power.

1. Grantee acknowledges, without waiving its right to challenge any City ordinance or regulation that conflicts with its rights under this Franchise, that its rights hereunder are subject to the police powers of the City to adopt and enforce ordinances necessary to protect the health, safety, and welfare of the public, and Grantee agrees to comply with all applicable laws and ordinances enacted by the City pursuant to such power.

2. This Franchise shall not be interpreted to prevent the City from lawfully imposing additional conditions, including additional compensation conditions for use of the rights-of-way.

3. No rights shall pass to Grantee by implication and this Franchise shall not include, nor be a substitute for:

a. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

b. Any permit, agreement, or authorization required by the City for rights-of-way users in connection with operation on or in rights-of-way or public property, including, by way of example and not limitation, construction or excavation permits; or

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

F. This Franchise is intended to convey limited rights and interests only as to those rights-of-way in which the City has a proprietary interest, is not a warranty of title or interest in any rights-of-way, does not provide the Grantee with any interest in any particular location within the rights-of-way, and does not confer rights other than as expressly provided in the grant hereof.

G. This City has granted this Franchise in reliance upon the Grantee's business skill, reputation, financial capacity, and character and may not be assigned, transferred, conveyed, or otherwise encumbered without the express written consent of the City pursuant to Section 15 of this Franchise.

3.2 <u>Use of Rights-of-Way</u>

A. Any privilege claimed under this Franchise in any right-of-way shall be subordinated to any prior lawful occupancy of the right-of-way.

B. Within parameters reasonably related to the City's role in protecting the public health, safety, and welfare, the City may require, through the permitting process, that the Cable System Facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of Access to a particular right-of-way and may deny access if Grantee is not willing to comply with the City's requirements.

3.3 Term

A. The term of this Franchise, and all rights, privileges, obligations, and restrictions pertaining thereto, shall be ten (10) years from the Effective Date of this Franchise, unless terminated earlier as provided herein.

B. The City and Grantee agree that any proceedings undertaken relative to the renewal of this Franchise shall be governed by and comply with the provisions of 47 U.S.C. § 546.

C. If Grantee requests renewal of this Franchise in accordance with the provisions of Section 626 of the Cable Act prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until renewed or until either party gives written notice at least one hundred eighty (180) days in advance of the intent not to renew the Franchise.

3.4 Acceptance and Effective Date

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of acceptance, Attached hereto as Exhibit A, and incorporated herein by this reference, (2) all verifications of insurance coverage specified under Section 6.3, and (3) the security specified in Section 6.4. These three items shall collectively be the "Franchise acceptance." The Effective Date of this Franchise shall be the date upon which the City Clerk Receives the Franchise acceptance.

B. Should Grantee fail to file the Franchise acceptance with the City Clerk within sixty (60) days after this Franchise is approved by City Council, this Franchise may be null and void.

3.5 Franchise Nonexclusive

This Franchise shall be nonexclusive, and subject to all prior rights, interests, easements, permits or licenses granted by the City to any Person to use any property for any purpose whatsoever, including the right of the City to use the same for any purpose it deems fit, including the same or similar purposes allowed Grantee hereunder, and the City may at any time grant authorization to use the Rights-of-Way for any purpose not

incompatible with Grantee's authority under this Franchise and for such additional franchises for cable systems as the City deems appropriate.

3.6 Effect of acceptance

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

3.7 Modifications to this Franchise

A. This Franchise is subject to the lawful terms and conditions of the DMCC, as the same is now or is hereafter amended by the lawful exercise of the City's police powers.

B. This Franchise may be amended at any time by mutual written agreement of the parties for any reason.

C. Competitive Equity:

1. The City reserves the right to grant additional franchises or similar authorizations to provide Video Programming services via Cable Systems or similar wireline systems located in the Right of Way. The City intends to treat wireline competitors in a nondiscriminatory manner in keeping with federal law. If, following the Effective Date of this Franchise, the City grants such an additional franchise or authorization to use the Right of Way to provide such services and Grantee believes the City has done so on terms materially more favorable than the obligations under this Agreement, then the provisions of this subsection will apply.

2. As part of this Franchise, the City and Grantee have mutually agreed upon the following terms as a condition of granting the Franchise, which terms may place the Grantee at a significant competitive disadvantage if not required of a wireline competitor: the Franchise Fee, PEG Access funding, PEG Access Channels, records and reports, and customer service obligations (hereinafter "Material Obligations"). The City and Grantee agree that these Material Obligations bear no relationship to the technology employed by the Grantee or a wireline competitor and as such can reasonably be expected to be applied fairly across all wireline competitors. The City and Grantee further agree that this provision shall not require a word for word identical franchise or authorization for competitive equity so long as the regulatory and financial burdens on each entity are generally equivalent.

3. Within one (1) year of the adoption of a wireline competitor's franchise or similar authorization, Grantee must notify the City in writing of the Material Obligations in

this Franchise that exceed the Material Obligations of the wireline competitor's franchise or similar authorization. The City shall have one hundred twenty (120) days to agree to allow Grantee to adopt the same Material Obligations provided to the wireline competitor, or dispute that the Material Obligations are different. In the event the City disputes that the Material Obligations are different, Grantee may bring an action in federal or State court for a determination as to whether the Material Obligations are different and as to what Franchise amendments would be necessary to remedy the disparity. Alternatively, Grantee may notify the City that it elects to immediately commence the renewal process under 47 U.S.C. § 546 and to have the remaining term of this Franchise shortened to not more than thirty (30) months.

4. Nothing in this subsection is intended to alter the rights or obligations of either party under applicable federal or State law, and it shall only apply to the extent permitted under applicable law and FCC orders. In no event will the City be required to refund or to offset against future amounts due the value of benefits already received.

5. This provision does not apply if the City is ordered or required to issue a franchise on different terms and conditions, or it is legally unable to do so; and the relief is contingent on the new Cable Operator actually commencing provision of service in the market to its first customer. Should the new Cable Operator fail to continuously provide service for a period of six (6) months, the City has the right to implement this Franchise with its original terms upon one hundred eighty (180) days' notice to Grantee.

6. This subsection does not apply to open video systems, nor does it apply to common carrier systems exempted from franchise requirements pursuant to 47 U.S.C. § 571; or to systems that serve less than 5% (five percent) of the geographic area of the City; or to systems that only provide video services via the public Internet.

SECTION 4: FRANCHISE FEES AND FINANCIAL CONTROLS

4.1. Franchise Fees

As compensation for the use of the City's Rights-of-Way, Grantee shall pay as a Franchise Fee to the City, throughout the duration of this Franchise, an amount equal to five percent (5%) of Grantee's Gross Revenues, which shall commence on the Effective Date of this Franchise.

4.2. Payments

Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding quarter. Each payment shall be due and payable no later than thirty (30) days after the end of the preceding quarter, after which time interest will accrue. The quarters shall end respectively on the last day of March, June, September and December.

4.3. Acceptance of Payment

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

4.4. Franchise Fee Reports

Each payment shall be accompanied by a written report to the City, verified by an authorized representative of Grantee, containing an accurate statement in summarized form which includes a breakdown by category of Grantee's Gross Revenues and the computation of the payment amount.

4.5. Audits

A. Upon forty-five (45) days prior written notice, the City shall have the right to conduct an annual independent audit of Grantee's records necessarily related to the enforcement of this Franchise and to re-compute any amounts determined to be payable under this Franchise.

   1. If Grantee cooperates in making all relevant records available to the City, the City will attempt to complete each audit within six (6) months, and the audit period shall be no greater than the previous three (3) years, unless the City has information relating to previous years beyond the three (3) years which raises doubt as to the accuracy of payments made under this or previous franchises, in which case an additional three (3) years may be audited.

   2. Any undisputed amounts due to the City as a result of the audit shall be paid within sixty (60) days following written notice to the Grantee by the City, which notice shall include a copy of the audit findings.

   3. If the audit shows that Franchise Fees have been underpaid by five percent (5%) or more in any calendar year, Grantee shall pay for the cost of the audit up to five thousand dollars ($5,000) per year being audited for a maximum of 3 years.

B. If Grantee disputes all or part of the audit findings, then the parties shall meet in an attempt to resolve the matter. If the parties are unable to resolve the matter, then either of the parties may refer that matter to non-binding arbitration. Each party shall bear one-half of the costs and expenses of the arbitration proceedings. The decision of the arbitrator(s) shall be subject to judicial review at the request of either party.

4.6. Late Payments

In the event any payment due the City is not timely made, Grantee shall pay, in addition to the amount due, interest at the rate of twelve percent (12%) per annum from the payment due date until the City receives the payment.

4.7. Underpayments

If a Franchise Fee underpayment is discovered as the result of an audit, Grantee shall pay, in addition to the amount due, interest at the rate of twelve percent (12%) per annum calculated from the date the underpayment was originally due until the date the City receives the payment.

4.8. Maximum Franchise Fees

A. The parties acknowledge that, at present, applicable federal law limits the City to collecting a franchise fee of five percent (5%) of Gross Revenues in a 12-month period.

B. In the event that at any time throughout the term of this Franchise, the City is authorized to collect an amount in excess of five percent (5%) of Grantee's Gross Revenues and the City elects to do so, then this Franchise shall be amended by the parties consistent with such change provided however that all other Cable Operators within the Franchise Area are treated similarly.

C. In the event that at any time throughout the term of this Franchise, the City may only collect an amount which is less than five percent (5%) of Grantee's Gross Revenues for franchise fees due to a change in federal law, then this Franchise shall be amended by the parties consistent with such change to provide for such lesser percentage.

4.9. Additional Commitments Not Franchise Fees

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

B. Additionally, any security fund, performance bond or letter of credit shall not be offset against Franchise Fees. Furthermore, the City and Grantee agree that any utility tax, business and occupation tax or similar generally applicable tax or fee shall be in addition to any Franchise Fees required herein and there shall be no offset against Franchise Fees subject to applicable law.

C. If Grantee elects to offset certain non-cash commitments or initiatives against the Franchise Fee in accordance with applicable law, Grantee will provide the City ninety (90) days' advance written notice, to include a detailed schedule of the amount it intends to offset, and the cost basis for each schedule item. The City will have eighty (80) days from receipt of Grantee's notice to respond. The City reserves the right to terminate Grantee's provision of any non-cash commitments or initiatives.

4.10. Payment on Termination

A. If this Franchise is lawfully terminated, the Grantee shall file with the City within ninety (90) days of the date of the termination, a financial statement, prepared by a certified public accountant, or representative of the Grantee's Controller or Chief Financial Officer, showing the Gross Revenues received by the Grantee since the end of the previous fiscal year.

B. Within thirty (30) days of the filing of the statement with the City, Grantee shall pay any unpaid Franchise Fee amounts as indicated.

C. If the Grantee fails to pay its remaining financial obligations as required in this Franchise, the City may satisfy the same by utilizing the funds from any security provided by the Grantee.

4.11. Tax Liability

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

4.12. Bundling of Cable and Non-Cable Services

In no event will the Grantee unlawfully evade or reduce applicable Franchise Fee payments required to be made to the City due to discounted bundled services. Customer billing shall be itemized by service(s), and Grantee shall comply with all applicable laws regarding rates for Cable Services and all applicable laws covering issues of cross subsidization.

SECTION 5: ADMINISTRATION AND REGULATION

5.1. Authority

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

5.2. Rate Regulation

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

5.3. Low Income Discount

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

The City acknowledges that discounted services reflect a voluntary initiative on the part of Grantee, and is not a requirement of this franchise. Subject to applicable law, should Grantee elect to discontinue the low income discount, Grantee shall first provide the City with ninety (90) days' prior notice.

5.4. Performance Evaluations

A. Upon thirty (30) days written notification, the City may hold performance evaluation sessions, no more than once every twelve months, whenever necessary to ensure proper performance of the provisions of this Franchise.

B. All evaluation sessions shall be open to the public.

C. Topics which may be discussed at any evaluation session include, but are not limited to, construction issues, Cable Service rate structures, Franchise Fee payments, liquidated damages, free or discounted Cable Service, application of new technologies, Cable System performance, Cable Services currently provided and programming offered, future plans of Grantee for new services or programs, Subscriber Complaints, privacy, modifications to this Franchise, judicial and FCC rulings, line extension policies and the City's or Grantee's rules; provided that nothing in this subsection shall be construed as requiring the renegotiation of this Franchise.

D. During evaluations under this subsection, Grantee shall fully cooperate with the City and shall provide such information and documents as the City may reasonably require to perform the evaluation.

5.5. Leased Access Channel Rates

Grantee shall offer Leased Access Channel capacity on such terms and conditions and rates as may be negotiated with each lessee, subject to the requirements of Section 612 of the Cable Act. Upon request, Grantee shall provide a complete schedule of current rates and charges for any and all Leased Access Channels or portions of such Channels provided by Grantee.

5.6. Late Fees

For purposes of this subsection, any assessment, charge, cost, fee or sum, however characterized, that Grantee imposes upon a Subscriber solely for late payment of a bill is a late fee and changes in late fee rates shall be noticed to the City and applied in accordance with applicable law.

SECTION 6: INDEMNIFICATION AND INSURANCE REQUIREMENTS

6.1. Indemnification

A. Indemnity: Grantee agrees to indemnify, defend and hold harmless the City, its elected officials, officers, authorized agents, boards, volunteers and employees, acting in official capacity, from and against any liability, damages or claims, costs, expenses, settlements or judgments arising out of, or resulting from the granting of this Franchise or Grantee's activities, any casualty or accident to Person or property that occurs as a result of any construction, excavation, operation, maintenance, reconstruction, relocation, or any other act or omission done pursuant to the terms of this Franchise, provided that the City shall give Grantee timely written notice of its obligation to indemnify the City. Notwithstanding the foregoing, Grantee shall not indemnify the City to the extent that any damages, liability or claims resulting from the willful misconduct, concurrent negligence of the City, its officers, authorized agents, or employees, attorneys, consultants, volunteers, or independent contractors for which the City is legally responsible, or for any activity or function conducted by any Person other than Grantee in connection with PEG Access and/or Emergency Alert System.

B. Indemnification for Relocation: Grantee shall indemnify, defend and hold the City, its elected officials, officers, authorized agents, boards, volunteers, and employees harmless for any damages, claims, additional costs, or expenses payable by the City related to, arising out of, or resulting from Grantee's failure to remove, adjust or relocate any of its facilities in the Rights-of-Way in a timely manner in accordance with any lawful relocation required by the City; including, but not limited to, claims for delay, damages, costs, and/or time asserted by any contractor performing public work for or on behalf of the City.

C. Procedures and Defense: With respect to Grantee's indemnity obligations set forth herein, Grantee shall provide the defense of any claims or actions brought against the City or any other indemnified party. Nothing herein shall be deemed to prevent the City from cooperating with Grantee and participating in the defense of any litigation by its own

counsel at its own cost and expense; provided, however, that after consultation with the City, Grantee shall have the right to defend, settle or compromise any claim or action arising hereunder, and Grantee shall have the authority to decide the appropriateness and the amount of any such settlement. However, Grantee may not agree to any settlement of claims financially affecting the City without the City's written approval that shall not be unreasonably withheld.

D. Duty to Give Notice: The City shall give Grantee timely written notice of any claim or of the commencement of any action, suit or other proceeding covered by the indemnity in this Section. The City's failure to so notify and request indemnification shall not relieve Grantee of any liability that Grantee might have, except to the extent that such failure prejudices Grantee's ability to defend such claim or suit. In the event any such claim arises, the City or any other indemnified party shall tender the defense thereof to Grantee and Grantee shall have the obligation and duty to defend any claims arising thereunder, and the City shall cooperate fully therein.

E. Separate Representation: If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay for the City's selected counsel, from the date such separate representation is required forward, all reasonable expenses incurred by the City in defending itself with regard to any action, suit, or proceeding indemnified by Grantee.

F. Inspection: Inspection or acceptance by the City of any work performed by Grantee at the time of completion of construction or maintenance projects shall not be grounds for avoidance of any of these covenants of indemnification.

6.2. Grantee's Further Responsibilities.

A. Grantee shall indemnify and hold harmless the City from any workers' compensation claims to which Grantee may become subject during the Term of this Franchise. It is further specifically and expressly understood that, solely to the extent required to enforce the indemnification provided per this Franchise, Grantee waives its immunity under RCW Title 51; provided, however, the foregoing waiver shall not in any way preclude Grantee from raising such immunity as a defense against any claim brought against Grantee by any of its employees or other third party. This waiver has been mutually negotiated by the parties.

B. Grantee's indemnification obligations shall include indemnifying the City for actions brought by Grantee's own employees and the employees of Grantee's agents, representatives, contractors, and subcontractors even though Grantee may be immune under Title 51 RCW from direct suit brought by such employee.

6.3. Insurance Requirements

A. Grantee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance or equivalent self-insurance.

B. Grantee shall maintain:

1. Commercial General Liability ("CGL") insurance written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits of Liability: $5,000,000.00 per occurrence, $5,000,000.00 premises/operations, products/completed operations aggregate, personal/advertising inquiry liability, contractual liability, and independent contractors liability; and shall not exclude XCU/subsidence perils or any similar perils;

2. Automobile Liability insurance at least as broad as ISO CA 00 01 including coverage for owned, non-owned, leased, or hired vehicles, as applicable, with a minimum limit of $5,000,000.00 each accident for bodily injury and property damage;

3. Workers' Compensation insurance for the State as required by Title 51, Revised Code of Washington, Industrial Insurance, $5,000,000.00 each accident/ each disease/ policy limit employers liability/Washington stop gap; and

4. Excess or Umbrella Liability: $5,000,000 each occurrence and $5,000,000 policy limit.

C. Additional Insured: The City its officers, employees, authorized agents, and volunteers shall be included as an additional insured under each of the insurance policies required in this Section except Workers' Compensation Insurance. Except for Workers' Compensation and employer's liability, all insurance policies required hereunder shall provide or be endorsed so that the City is covered as, and have the rights of, an additional insured with respect to liability arising out of activities performed by, or on behalf of, Grantee under this Franchise or applicable law, or in the construction, operation, upgrade, maintenance, repair, replacement or ownership of the Cable System. Grantee shall provide to the City either (1) a copy of an endorsement covering the City as an Additional Insured for each insurance policy required in this Section and providing that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of Grantee's obligations to fulfill the requirements. Grantee's insurance coverage shall be primary insurance with respect to the City. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of Grantee's insurance and shall not contribute to it. Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

D. Coverage: Each policy shall provide that the insurance shall not be canceled or terminated so as to be out of compliance with these requirements without forty-five (45) days written notice first provided to the City via mail, and thirty (30) days' notice for

nonpayment of any premium. If the insurance is canceled or terminated so as to be out of compliance with the requirements of this Franchise, Grantee shall provide a replacement policy. Grantee agrees to maintain continuous uninterrupted insurance coverage, in at least the amounts required, until all work required to be performed under the terms of this Franchise is satisfactorily completed and, in the case of Commercial General Liability Insurance, for at least one (1) year after expiration of this Franchise. Any failure of Grantee to comply with the claim reporting provisions of the policy(ies) or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the City. However, if coverage is not afforded under these circumstances, Grantee will indemnify the City for losses the City otherwise would have been covered for as an additional insured.

E. Alternative Insurance: Grantee shall not cancel any required insurance policy without obtaining alternative insurance in conformance with this Franchise. Each of the required insurance policies shall be with insurers qualified to do business in the State of Washington with a Best's rating of no less than "A- VII."

F. Verification of Coverage: In addition to the other requirements of this Section, Grantee shall furnish the City with certificates of insurance reflecting at least the minimum coverage and policy limits required hereunder. The certificates for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

G. Grantee's policy shall not include any of the following endorsements, or their equivalent endorsements or exclusions:

1. Contractual liability limitation (GCL Form 21 39 or equivalent),

2. Amendment of insured contract definition (CGL Form 24 26 or equivalent),

3. Limitation of coverage to designated premises or project (CGL Form 21 44 or equivalent),

4. Any endorsement modifying or deleting the exception to the employer's liability exclusion,

5. Any "Insured vs. Insured" or "cross-liability" exclusion with respect to additional insureds, and

6. Any type of punitive, exemplary or multiplied damaged exclusion.

H. Evidence of insurance shall be in the form of a certificate of insure evidencing compliance with these requirements.

6.4. <u>Franchise Security</u>

A. Grantee shall provide a performance bond, in a form acceptable to the City, in the amount of Two Hundred Fifty thousand dollars ($250,000.00) to ensure the faithful performance of its responsibilities under this Franchise and applicable law. Grantee may be required to obtain additional security, such as generally applicable construction bonds, in accordance with the City's permitting requirements. Grantee shall pay all premiums or costs associated with maintaining the security, and shall keep the same in full force and effect at all times and shall immediately replenish the bond upon foreclosure. Except as expressly provided herein or as otherwise specified in the City's construction permitting requirements, the Grantee shall not be required to obtain or maintain other security as a condition of being awarded the Franchise. Grantee shall not cancel the performance bond without obtaining an alternative performance bond in conformance with this Franchise.

B. The security shall be subject to the approval of the City Engineer as to its adequacy under the requirements of this Section.

C. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered, jointly and severally, any damages suffered by the City as a result thereof, including but not limited to, staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of Facilities.

D. The security required by this Section shall not be construed to limit Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

SECTION 7: CUSTOMER SERVICE

7.1. Customer Service Standards

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

7.2. Subscriber Privacy

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

SECTION 8: REPORTS AND RECORDS

8.1. Open Records

A. The City shall have Access to, and the right to inspect, any books and records of Grantee and its Affiliates which are reasonably necessary to monitor and enforce Grantee's

compliance with the provisions of this Franchise at Grantee's regional business office, during normal business hours, and without unreasonably interfering with Grantee's business operations.

B. The City may, in writing, request copies of any such records or books that are not identified as proprietary or confidential, and Grantee shall provide such copies within thirty (30) days of the transmittal of such request.

1. One copy of all reports and records required under this or any other Section shall be furnished to the City at the sole expense of Grantee.

2. If the requested books and records are too voluminous, or identified as proprietary and confidential, or for security reasons cannot be copied or removed, then the City shall inspect them at Grantee's regional office.

8.2. Confidentiality

A. Grantee shall not be required to disclose information to third parties that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate of Grantee that is not providing Cable Service in the Franchise Area.

B. The City agrees to keep confidential any proprietary or confidential books or records of Grantee to the extent permitted by law; provided that Grantee shall be responsible for clearly and conspicuously identifying the records as confidential or proprietary, and shall provide a brief written explanation as to why such information is confidential or proprietary and how it may be treated as such under State or federal law.

C. Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or State privacy law.

1. For purposes of this subsection, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, as-built documents, fiber optic cable locations and maps, customer lists, marketing plans, financial information unrelated to the calculation of Franchise Fees or rates pursuant to FCC rules, or other information that is reasonably determined by Grantee to be competitively sensitive.

2. If the City receives a demand from any Person for disclosure of any information designated by Grantee as proprietary or confidential, the City shall, so far as consistent with applicable law, advise Grantee and provide Grantee with a copy of any written request by the Person demanding Access to such information within five (5) business days.

D. While it is not a legal obligation, the City, as a courtesy, will allow Grantee up to ten (10) business days to obtain and serve the City with a court injunction to prevent the City from releasing the Documents.

1. If Grantee fails to obtain a Court order and serve the City within the ten (10) business days, the City may release the Documents.

2. The City will not assert an exemption from disclosure on Grantee's behalf.

8.3. Maps and Records Required

Grantee shall make available to the City upon request:

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

2. A copy of all FCC filings that relate to the operation of the Cable System in the Franchise area; and

3. A list of Grantee's Cable Services, rates, and Channel line-up.

8.4. Submittal of Documents

A. Upon written request, Grantee shall submit to the City a copy of any application, notification, communication or document of any kind, submitted by Grantee or its Affiliates to any federal, State or local courts, regulatory agencies and other governmental bodies if such document directly relates to the operations of Grantee's Cable System within the Franchise Area.

B. Grantee shall submit such documents to the City no later than thirty (30) days after receipt of the City's request. Grantee shall not claim confidential, privileged or proprietary rights to such documents unless under federal, State, or local law such documents have been treated as confidential or determined to be confidential by a court of competent jurisdiction, or a federal or State agency.

8.5. Annual Reports

In lieu of DMCC Section 20.05.140, Grantee shall provide annual reports upon request from the City, thirty (30) days after the end of the first quarter. Grantee shall submit to the City a written report containing the following information:

A. The most recently completed annual corporate report;

B. A Gross Revenue statement for the preceding fiscal year and all deductions and computations for the period, reviewed by a certified public accountant, who may also be the chief financial officer or controller of Grantee;

C. A summary of the previous years' activities regarding the development of the Cable System, including, but not limited to, homes passed, beginning and ending plant miles, any technological changes occurring in the Cable System; and

D. An executive summary of Subscriber Complaints received in the previous year.

E. A description of planned construction, if any, for the current year.

SECTION 9: PROGRAMMING AND ACCESS

9.1. Broad Programming Categories

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

9.2. Parental Control Device

Upon request by any Subscriber, Grantee shall make available a parental control or lockout device, trap or filter to enable a Subscriber to control Access to both the audio and video portions of any or all Channels. Grantee shall inform its Subscribers of the availability of the lockout device at the time of their initial subscription and periodically thereafter. Such devices, traps or filters will be provided at no charge to the Subscriber, unless otherwise provided by federal law.

9.3. Access Channels

A. The Grantee shall provide to the City three (3) standard digital format PEG Channels for Subscribers within the Franchise Area. The three PEG Channels shall include a Government Access Channel currently being programmed by the City; the Educational Access Channel; and the City's Public Access Channel currently being programmed by a Designated Access Provider.

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

C. Simulcast High Definition Access Channel:

1. The Grantee agrees to simulcast the one (1) Government Access Channel in high-definition (HD PEG Channel) format under the following conditions:

   a. Upon the City's request, the Grantee shall have twelve (12) months to activate the simulcast HD PEG Channel.

   b. The Grantee shall be responsible for all capital engineering costs associated with fulfilling the request to activate the simulcast HD PEG Channels.

   c. The City or any Designated Access Provider shall be responsible for acquiring all equipment necessary to produce programming in HD.

   d. Upon activation of the simulcast HD PEG Channel, Comcast shall own and maintain the encoder equipment used to transmit the high-definition signal from City Hall (the demarcation point).

   e. The City shall provide the HD PEG Channel signal as specified by the Grantee's engineering standards, as amended by the Grantee from time to time because of changes in technology.

2. The City acknowledges that the simulcast HD PEG Channel will be available only to those Subscribers who elect to subscribe to Grantee's high-definition Cable Service, receive a high-definition set-top converter, and pay all fees associated therewith.

3. Grantee shall have sole discretion to determine the Channel placement of the simulcast HD PEG Access Channel within its high-definition channel line-up.

9.4. <u>Control and Connectivity of Access Channels</u>

A. The City may authorize Designated Access Providers to control, operate and manage the use of any and all Access facilities provided by Grantee under this Franchise, including, without limitation, the operation of Access Channels. The City or its designee may formulate rules for the operation of the Access Channels, consistent with this Franchise.

B. Regarding the City's and Designated Access Providers use of Access facilities and Access Channels, Grantee shall fully cooperate with requests from the City, and provide all necessary assistance related thereto.

C. As of the effective date of this Franchise, the Grantee maintains and shall continue to maintain all existing fiber optic return line(s) to facilitate the City's current Access connectivity to Grantee's Headend. If the City desires to relocate or expand the fiber optic return line(s) to new location(s) over the term of this Franchise, upon one hundred

twenty (120) days written request by the City and at the City's cost for Grantee's reasonable time and materials, the Grantee shall construct the requested new fiber optic return line(s).

9.5. Location and Quality of Access Channels

A. All Access Channels provided to Subscribers under this Franchise shall be included by Grantee as a part of the lowest Tier of service provided to all Subscribers in the Franchise Areas or as otherwise provided by federal law. Grantee agrees to use reasonable efforts to place the Access Channel in the same vicinity as other local government Access channels.

B. The parties agree that it is the responsibility of the Designated Access Provider(s) to provide a quality PEG signal, to the Grantee at the point of demarcation, which meets or exceeds the FCC technical standards. Notwithstanding the forgoing, the Grantee agrees that it will deliver to subscribers a PEG signal of the same quality it receives from the designated Access provider(s) without degradation and in accordance with the FCC technical standards. There shall be no restriction on Grantee's technology used to deploy and deliver standard digital or high definition signals so long as the requirements of the Franchise are otherwise met. FCC technical standards shall be used for all testing and assessment of quality under this section.

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

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

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

9.6. Access Capital Contribution

A. Grantee shall collect and remit to the City, as support for any lawful capital PEG use, ___ cents ($.__) per Subscriber per month, payable quarterly with Franchise Fees as a "PEG Fee." The PEG Fee shall not be treated as franchise fees for purposes of 47 U.S.C. § 542 or any other purpose, and shall at no time be offset or deducted from franchise fee payments made to the City under this Franchise or applicable law.

Commented [DTJ1]: Comcast needs to better understand the City's PEG needs to justify a PEG Fee given the current Utility Tax provisioning of 10% on Cable Services.

B. The City shall have discretion to allocate the PEG Fee in accordance with applicable law. To the extent the City makes Access capital investments using City funds prior to receiving the monthly PEG Fee funds, the City is entitled to apply the subsequent monthly PEG Fee payments from Grantee toward such City capital investments. The City agrees that the PEG Fee may be treated as external costs under applicable federal law.

C. Upon the Grantee's written request, the City shall submit a report no more frequently than annually on the use of the City specific Access Channels and capital PEG Fee. The City shall submit a report to the Grantee within one hundred twenty (120) days of a written request. The Grantee may review the records of the City regarding the use of the PEG Fee.

D. The City shall dedicate the time, personnel and other resources needed to operate the Access Channels designated herein.

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

10.1. Right to Construct

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

10.2. General Standard

All work authorized and required hereunder shall be done in a safe, thorough and workmanlike manner. All equipment shall be durable and installed and maintained in accordance with good engineering practices and comply with applicable law. Grantee shall on a daily basis ensure cleanup of all workplaces whether work is performed by Grantee or Grantee's agents.

10.3. Repair and Emergency Work

A. In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City's inspector as promptly as possible. Such notification shall include the Grantee's emergency contact phone number for the corresponding response activity.

B. During emergencies, except those involving imminent danger to the public health, safety or welfare, the City shall provide notice to Grantee, at a designated emergency response contact number, to allow Grantee the opportunity to respond and rectify the emergency without disrupting Cable Service. If after providing notice, there is no immediate response, the City may move Grantee's facilities.

C. Grantee shall apply for appropriate permits for emergency or repair work within forty-eight (48) hours after the commencement of said work.

10.4. One Call

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

10.5. Permits Required

A. Prior to doing any work in the Right-of-Way or other public property (with the exception of installations or general maintenance that involve no construction and with no disruption to the use of the Right-of-Ways or other public property), Grantee working directly or through a contractor, subcontractor, Affiliated Entity, or other Person shall apply for, and obtain, in advance, appropriate construction permits from the City.

B. As part of the permitting process, the City may impose such conditions as are necessary for protecting the public or any and all facilities with in such Right-of-Ways, and for providing for the proper restoration of such Right-of-Ways and to protect the public and the continuity of non-motorized or vehicular traffic. Grantee shall pay all generally applicable fees for the requisite City construction permits.

C. Grantee agrees to comply with any required permit conditions and/or licenses.

10.6. Compliance with Applicable Codes

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

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

10.7. Least Interference

Work in the Right-of-Ways, or on other public property, shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and City residents. Grantee's Cable System shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes or any other property of the City, or with any other pipes,

wires, conduits, pedestals, structures or other facilities that may have been laid in the Right-of-Way by, or under, the City's authority. In the event of such interference, the City may require the removal or relocation of Grantee's lines, cables, equipment and other appurtenances from the property in question at Grantee's expense.

10.8. Undergrounding of Cable

A. When required by general ordinances, resolutions, regulations, or rules of the City or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense, unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances.

B. Where electric, telephone, and other above-ground utilities are installed underground at the time of Cable System construction, or when all such wiring is subsequently placed underground, all Cable System lines shall also be placed underground with other wireline service at no expense to the City. Related Cable System equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where either electric or telephone utility wiring is aerial, Grantee may install aerial cable, except when a property owner or resident requests underground installation and agrees to bear the additional cost in excess of aerial installation.

C. Grantee shall utilize existing poles and conduit wherever possible.

10.9. Restoration of Property

D. If in connection with the construction, operation, maintenance, upgrade, repair or replacement of the Cable System, the Grantee disturbs, alters, or damages any public property, the Grantee agrees that it shall at its own cost and expense pay for any damage and replace and restore any such property to the satisfaction of the City and in compliance with the permit requirements.

E. Grantee shall warrant any restoration work performed by or for Grantee in the Right-of-Way or on other public property as required by the Construction permit and applicable municipal code or any generally applicable ordinance or resolution of the City.

F. If restoration is not satisfactorily and timely performed by the Grantee, the City may, after prior notice to the Grantee, or without notice where the disturbance or damage may create a risk to public health or safety, cause the repairs to be made and recover all direct and indirect cost of those repairs from the Grantee. Within thirty (30) days of receipt of an itemized list of those costs, including the costs of labor, materials and equipment, the Grantee shall pay the City.

10.10. Movement of Cable System Facilities

A. Relocation at Request of City. Upon thirty (30) days prior written notice to Grantee, City shall have the right to require Grantee to relocate any part of the Cable System within the Right-of-Way when the public convenience, public interest, or safety, health or welfare of the public requires such change, and the expense thereof shall be paid by Grantee.

1. In the event of any capital improvement project exceeding $500,000 in expenditures by the City which requires the removal, replacement, modification or disconnection of Grantee's facilities or equipment, the City shall provide at least sixty (60) days written notice to Grantee.

2. Following notice by the City, Grantee shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City.

3. Should Grantee fail to remove or relocate any such facilities by the date established by the City, the City may effect such removal or relocation, and the expense thereof shall be paid by Grantee, including all costs and expenses incurred by the City due to Grantee's delay.

4. If the City requires Grantee to relocate its facilities located within the Right-of-Way, the City may provide Grantee with an alternate location within the Right-of-Way.

5. If public funds are available to any Person using such Right-of-Way for the purpose of defraying the cost of any of the foregoing, the Grantee may make application for such funds.

B. In the case of relocation projects where the City hires and designates an independent contractor to accommodate and coordinate the conversion of overhead utilities within a City capital improvement project, if the Grantee decides to participate in the joint trench opportunity then the Grantee shall enter into a separate agreement with the City that, at a minimum, requires the Grantee to pay all design, permitting, administration, coordination, and construction costs incurred by the City associated with the proportionate share of the joint trench utilized by the Grantee and the level of effort required to design, permit, administer, coordinate, and construct the joint utility trench to accommodate the Grantee's facilities.

C. If any removal, replacement, modification or disconnection of the Cable system is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holders(s), Grantee shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible entity, as long as the other franchise holder(s) pay for Grantee's time and material costs associated with the project and Grantee is issued a permit for such work by the City.

D. Franchisee shall, upon reasonable prior written request of any Subscriber, relocate its aerial distribution cable facilities underground, as long as the Subscriber pays for Grantee's time

and material costs associated with the project and Grantee is issued a permit for such work by the City.

E. In the event an underground conversion of cable facilities is required as part of the street improvement condition(s) of a new land use development, not associated with a City designated capital improvement project, this Franchise shall in no way limit Grantee's right to recoup all time and material costs associated with the conditioned underground conversion of the Cable System from the Person responsible for the project.

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

10.11. Tree Trimming

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

10.12. Rights-of-Way Vacation

If any street, or portion thereof, used by Grantee is vacated by the City during the term of this Franchise, unless the City Council specifically reserves to Grantee the right to continue its installation in the vacated street, Grantee shall, without delay or expense to the City, remove its Facilities from such street.

10.13. Inspection of Facilities

Upon reasonable notice, the City may inspect any of Grantee's Facilities or equipment within the Rights-of-Way and on other public property. If an unsafe condition is found to exist, the City, in addition to taking any other action permitted under applicable law, may order Grantee to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition by a time the City establishes. The City has the right to inspect, repair and correct the unsafe condition if Grantee fails to do so, and to reasonably charge Grantee therefor.

10.14. Hazardous Substances

A. Grantee shall comply with all applicable State and federal laws, statutes, regulations, and orders concerning hazardous substances, as described in RCW 70.105D.020, relating to the Cable System in the City's rights-of-way.

B. Grantee shall maintain and inspect the Facilities located in the City's rights-of-way and immediately inform the City of any release of hazardous substances.

C. Upon reasonable notice to Grantee, the City may inspect the Facilities in the City's rights-of-way to determine if any release of hazardous substances has occurred, or may occur, from, or related to, the Facilities.

D. In removing or modifying the Facilities as provided in this Franchise, Grantee shall also remove all residue of hazardous substances related thereto; provided, however, that if it is determined that the Facilities did not cause the release of hazardous substances, Grantee shall have no duty to remove such substances.

E. Grantee agrees to forever indemnify the City against any claims, costs, and expenses of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances arising from, connected to, or incident to the Facilities in the City's rights-of-way.

10.15. Reservation of City Use of Rights-of-Way

A. Grantee agrees that its use of the Franchise Area shall, at all times except in instances of prior right, be subordinate and subject to the City's needs for municipal infrastructure and Access to the Franchise Area and the public's right to travel, except as may be otherwise required by law.

B. Should Grantee fail to remove, adjust, or relocate its Facilities by the date established by the City Engineer, or his/her designee, and provided in writing to Grantee, the City may effect such removal, adjustment, or relocation and recover the cost thereof from Grantee, including all costs and expenses incurred by the City due to Grantee's delay.

C. Grantee agrees to coordinate its activities with the City and all other utilities located within the public rights-of-way within which Grantee is undertaking its activity.

D. Grantee shall not construct the Cable System in any manner that requires any Subscriber to install any cable, wire, conduits, or other facilities, under or over a right-of-way.

E. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public rights-of-way and may, from time to time, pursuant to applicable sections of this Franchise, require the removal, and/or replacement thereof in the public interest and safety at the expense of Grantee.

10.16. Work of Contractors, Subcontractors, and Affiliated Entities

A. Grantee's contractors, subcontractors, and affiliated entities performing work benefitting Grantee shall be licensed and bonded according to the City's, and the State's, regulations and requirements.

B. Work by contractors, subcontractors, and affiliated entities is subject to the same restrictions, limitations, and conditions as if the work were performed by Grantee.

C. Grantee shall be responsible for all work performed by its contractors, subcontractors, or affiliated entities, and other Persons performing work on its behalf as if the work were performed by it, and shall ensure that all such work is performed in compliance with this Franchise and other applicable laws, and shall be, jointly and severally, liable for all damages and correcting all damage caused by them.

D. It is Grantee's responsibility to ensure that contractors, subcontractors, affiliated entities, or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise and other applicable laws governing the work performed by them.

E. Grantee agrees to inspect its contractors and subcontractors on a regular basis and ensure that both its personnel, contractors, and subcontractors provide clean-up of all workplaces and adhere to industry safety as well as local safety standards.

10.17. Discontinuing Use of Facilities

A. Whenever Grantee intends to discontinue using any Facility within the City's Rights-of-Way, Grantee shall submit for the approval of the authorizing City department, a complete description of the Facility and the date on which Grantee intends to discontinue using the Facility.

B. Grantee may remove the Facility or request that the City permit it to remain in place.

C. Notwithstanding Grantee's request that any such Facility remain in place, the City may require Grantee to remove the Facility from the City's Rights-of-Way or modify or maintain the Facility to protect the public health and safety or otherwise serve the public interest.

D. The City may require Grantee to perform a combination of modification, maintenance, and/or removal of the Facility.

E. Until such time as Grantee removes or modifies the Facility as directed by the City, or until the rights to, and responsibility for, the Facility are accepted by another Person having authority to construct and maintain such Facility, Grantee shall be responsible for all necessary repairs and relocations of the Facility, as well as maintenance of the City's Rights-of-Way, in the same manner and degree as if the Facility were in active use, and Grantee shall retain all liability for such Facility.

10.18. Construction and Use of Poles

Grantee may negotiate and enter into pole attachment agreements with utilities maintaining poles in the Franchise Area and on terms acceptable to Grantee and the affected utilities.

10.19. Ducts and Conduits

A. If the Grantee is constructing underground conduit for its own use, the City may require the Grantee to construct excess conduit capacity in the public ways, provided that the City enters into a contract with the Grantee consistent with RCW 80.36.150. The contract rates to be charged should recover the incremental costs of the Grantee, (calculated as the difference between what the Grantee would have paid for the construction of its conduit and the additional cost only of construction of the excess conduit). If the City makes the additional conduit available to any other entity for the purposes of providing telecommunications service or cable service for hire, sale, or resale to the general public, the rates to be charged, as set forth in the contract with the Grantee shall recover at least the fully allocated costs of the Grantee. The Grantee shall state both contract rates in the contract. The City shall inform the Grantee of the use, and any change in use, of the requested conduit and related access structures, if any, to determine the applicable rate to be paid by the City.

B. The City shall not require that the additional conduit space be connected to the access structure and vaults of the Grantee.

C. Grantee occupancy of City-owned conduit. If the City owns or leases conduit in the path of the Grantee's proposed facilities, provided it is technologically feasible for the Grantee to occupy the conduit owned or leased by City, and further that the City shall provide the Grantee with access structure and vaults connecting the additional conduit to the Grantee's cable system to be accessed solely by the Grantee, the Grantee shall be required to occupy the conduit owned or leased by City in order to reduce the necessity to excavate the public way. The Grantee shall pay to City a fee for such occupancy which shall be the cost the Grantee would have expended to construct its own conduit from the outset, as certified by the Grantee's engineer and approved by the City Engineer. City and Grantee may agree to amortize the fee through annual payments to City over the term of the Franchise, including the time value of money.

SECTION 11: CABLE SYSTEM ARCHITECTURE AND TECHNICAL STANDARDS

11.1. Subscriber Network

A. Cable System Functionality**:** As of the Effective Date of this Franchise, Grantee provides its Cable Service utilizing a two-way hybrid fiber-coaxial Cable System architecture that deploys from Grantee's Headend to nodes throughout the City where the signal is converted to radio frequency and runs along the coaxial portion of the Cable System to Subscribers.

   Over the term of this Franchise, Grantee shall maintain the Cable System in a manner consistent with, or in excess of, a typical 750 MHz Cable System.

B. Grantee will take prompt corrective action if it finds that any facilities or equipment on the Cable System are not operating as expected, or if it finds that facilities and equipment do not comply with the requirements of this Franchise or applicable law.

11.2. Standby Power

Grantee shall provide standby power generating capacity at the Cable System Headend capable of providing at least twelve (12) hours of emergency operation. Grantee shall maintain standby power supplies that supply back-up power for at least two (2) hours duration throughout the distribution networks and four (4) hours duration at all nodes and hubs.

11.3. Emergency Alert

Grantee shall provide an operating Emergency Alert System in accordance with and at the time required by the provisions of State and federal laws, including FCC regulations.

11.4. Technical Performance

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

11.5. Cable System Performance Testing

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

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

C. Grantee shall maintain written records of its Cable System tests performed by or for Grantee. Copies of such test results will be provided to the City upon request.

D. Grantee shall promptly take such corrective measures as are necessary to correct any performance deficiencies fully and to prevent their reoccurrence as far as possible. Grantee's failure to correct deficiencies identified through this testing process shall be a material violation of this Franchise. Sites shall be re-tested following correction.

11.6. Additional Tests

A. In addition to the above, and to the extent applicable, where there exists other evidence which in the judgment of the City casts doubt upon the reliability or technical quality of the Cable System, after giving Grantee thirty (30) days prior written notice and a reasonable opportunity to cure, the City may require Grantee to conduct additional tests and analyze and report on the performance of the Cable System in the area having service problems.

B. Grantee shall fully cooperate with the City in performing such testing and shall prepare the results and a report if requested, within thirty (30) days after such testing. This report shall include the following information:

1. The nature of the evidence which precipitated the special tests;

2. The Cable System component tested;

3. The equipment used and procedures employed in testing;

4. The results of the testing and Cable System evaluation, including a description of any problem(s) found;

5. The method, if any, in which such problem was resolved; and

6. Any other information pertinent to said tests and analysis, which may be required.

SECTION 12: SERVICE EXTENSION AND SERVICE TO PUBLIC BUILDINGS

12.1. Service Availability

A. Service Connections: Grantee shall provide Cable Service within seven (7) business days of a request by any potential residential subscriber within the City provided, however, that service can be installed via a standard installation, as described below. For purposes of this subsection, a request shall be deemed made on the date of signing a service agreement or receipt by Grantee of a verified verbal request. Grantee shall provide such service with no line extension charge, except as specifically authorized below, at a nondiscriminatory installation charge for a standard installation, consisting of a one hundred twenty-five (125) foot service drop from the cable plant in the Right-of-Way to the exterior demarcation point for residential subscribers, with additional charges for non-standard installations computed according to a nondiscriminatory methodology for such installations.

B. For non-standard installations that cannot be accommodated without an extension of Grantee's Cable System, the Grantee may elect to provide Cable Service to the requesting resident(s) for the line extension on a time and material cost basis.

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

D. Grantee shall provide Cable Service to Multiple Dwelling Units in accordance with this Franchise and applicable laws.

E. Annexation: In the event of annexation by the City, or as development occurs, any new territory shall become part of the territory for which this Franchise is granted.

1. The Grantee shall construct and extend its Cable System so that it is able to provide Cable Service to any areas which may be acquired, developed or annexed by the City during the Franchise term, or otherwise added to the City's jurisdiction during the Franchise term, or any extension thereof.

2. Access to Cable Service shall not be denied to any group of potential cable Subscribers because of the income of the residents of the area in which such group resides.

3. The Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas but in no event to exceed twelve (12) months of Council Approval of the annexation, subject to the provisions on line extension herein.

12.2. Permission of Property Owner or Tenant for Installation, and Treatment of Property

A. If the Facilities pass over or under private or publicly owned property, Grantee is solely responsible for obtaining all necessary permission from the property owner.

B. Grantee shall not install or attach any of its Facilities to any property without first securing the written permission of the owner or tenant of any property involved, or of such other person who has the right to approve or disapprove the attachment (authorized party), except if there is an existing utility easement; and in the event that such permission or easement is later revoked, Grantee at the request of the authorized party shall promptly remove any of its facilities and promptly restore the property to its original condition at Grantee's expense.

C. Grantee shall perform all such installations and removals in compliance with state and local law and shall be responsible for any damage to residences or other property caused by the installation or the removal.

12.3. Connection of City and Other Public Buildings

A. Upon request through the designated City representative, the Grantee will make available without charge, as long as it is economically feasible, a standard installation and a minimum of one outlet of Basic Cable Services to City administrative buildings as designated by the City (whether they are owned or leased), and fire station(s), police station(s), libraries, Access facilities, and K-12 public School(s).

B. Grantee may additionally volunteer to provide a digital level of service, in addition to the Basic Cable Service, that provides Access to national 24-hour news channels; provided that if the installation to such building does exceed one hundred twenty-five (125) aerial feet, the City or other agency agrees to pay the incremental cost of such installation in excess of one hundred twenty-five (125) feet or a necessary distribution line extension of the Cable System, including the cost of such excess labor and materials. The recipient of the service will secure any necessary right of entry.

C. The Cable Service will not be used for commercial purposes, and the outlets will not be located in jail cells or areas open to the public, except for one outlet to be located in a public lobby in City buildings that will be used by the public for viewing City selected programming.

D. The City will take reasonable precautions to prevent any use of the Grantee's Cable System in any manner that results in inappropriate use, loss or damage to the Cable System.

E. If additional outlets of Cable Service are needed in such buildings, only the Grantee is authorized to complete the Cable Service expansion to support the outlet installation(s) and the building occupant will pay the standard installation fees. No other Cable Service fees shall be owed in connection with additional outlets.

F. The City acknowledges that complimentary services reflect a voluntary initiative on the part of Grantee. Grantee does not waive any rights it may have regarding complimentary services under federal law or regulation. Subject to applicable law, should Grantee elect to offset governmental complimentary services against Franchise Fees, Grantee shall first provide the City with ninety (90) days' prior notice.

SECTION 13: FRANCHISE VIOLATIONS

13.1. Non-Material Franchise Violations

A. Notice of Non-Material Violation: If the City believes that Grantee has failed to perform any non-material obligation under this Franchise, the City shall notify Grantee in writing, stating with reasonable specificity the nature of the alleged default, and Grantee shall have thirty (30) days from the receipt of such notice to:

1. Respond to the City, contesting the City's assertion that a default has occurred, and request a meeting in accordance with subsection B, below; or

2. Cure the default; or

3. Notify the City that Grantee cannot cure the default within thirty (30) days, because of the nature of the default. In the event the default cannot be cured within thirty (30) days, Grantee shall:

a. Notify the City in writing and with specificity the exact steps that will be taken and the projected completion date of each step necessary to promptly cure the default; and

b. Request a meeting pursuant to subsection B below for the City to determine whether additional time beyond the thirty (30) days specified above is indeed needed, and whether Grantee's proposed completion schedule and steps are reasonable.

B. Meet and Confer: If Grantee does not cure the alleged default within the cure period stated above, or denies the default, or the City orders a meeting, the City shall set a meeting, not less than fifteen (15) business days after Grantee's receipt of written notice from the City, to investigate the existence of the alleged default or the timing and procedure required to cure a default, and provide Grantee with an opportunity to be heard and to present evidence in its defense.

C. Notice to Correct: If, after the meeting, the City determines that a default exists, Grantee and the City may agree on a plan and schedule to cure the default, or the City shall order Grantee to correct or remedy the default within thirty (30) days, or within such additional time as the City determines.

D. Determination of Default: The determination as to whether a non-material violation under this Franchise has occurred shall be within the discretion of the City, must be made in writing, and based upon findings that include Grantee's submissions; provided that any such determination may be subject to appeal to the City's hearing examiner or review by an arbitrator as described in Section 16.1.

E. Enforcement: In the event Grantee does not cure the default within the time agreed upon by the Parties or ordered by the City and to the City's reasonable satisfaction, the City may recommend revocation of this Franchise pursuant to the procedures in subsection 13.2 or commence the arbitration procedures in section 16.1.

13.2. <u>Material Franchise Violations</u>

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

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

2. cure the default; or

3. notify the City that Grantee cannot cure the default within the thirty (30) days, because of the nature of the default.

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

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

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

1. recommend the revocation of this Franchise pursuant to the procedures in this franchise; or

2. pursue any other legal or equitable remedy available under this Franchise or applicable law.

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

13.3. <u>Revocation</u>

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

1. if Grantee fails to cure any material obligation under this Franchise;

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

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

4. if Grantee becomes insolvent, or if there is an assignment for the benefit of Grantee's creditors;

5. if Grantee willfully misrepresents material facts in the negotiation of this Franchise; or

6. if Grantee repeatedly breaches a material provision of the Customer Service Standards.

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

C. The City shall submit a report and recommendation as to termination of the Franchise to the City's appointed hearing examiner who shall conduct a public hearing to determine if revocation of the Franchise is warranted. The hearing examiner shall act as the final decision maker for the City.

1. At least twenty one (21) calendar days prior to the public hearing, the City clerk shall issue a public hearing notice that shall establish the issue(s) to be addressed in the public hearing; provide the time, date and location of the hearing; provide that the City shall hear any Persons interested therein; and provide that the Grantee shall be afforded fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, to be represented by counsel and to question witnesses, consistent with the adopted public hearing rules.

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

D. Within thirty (30) days after the close of the hearing, the hearing examiner shall adopt a written recommendation to the City Council. If the decision of the hearing examiner is to

revoke and terminate the Franchise, the City Council shall declare that the Franchise is revoked and terminated, and any form of surety is forfeited, unless the City Council finds a clear error in the hearing examiner's decision. The City council's written decision shall include findings of fact and conclusions derived from those facts which support the decision of the City council.

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

13.4. Termination

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

1. Require Grantee to maintain and operate its Cable System on a month-to-month basis until a new cable operator is selected; or

2. Purchase Grantee's Cable System in accordance with federal law.

B. The City may order the removal of the above-ground Cable System facilities and such underground facilities from the City at Grantee's sole expense within thirty (30) days following notice from the City. However, Grantee shall have no obligation to remove the Cable System where it utilizes the system to provide other, permitted and lawful, non-cable services and has any other authority under applicable law to maintain facilitates in the public rights-of-way, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

C. If Grantee fails to complete any removal required by subsection 10.10 to the City's satisfaction, after written notice to Grantee, the City may cause the work to be done and Grantee shall reimburse the City for the costs and expenses incurred within thirty (30) days after receipt of an itemized list of the costs and expenses, or the City may recover the costs and expenses through Grantee's security instruments if Grantee has not paid such amount regarding removal, which shall include reasonable attorneys' fees and other costs for work conducted by City staff or agents.

13.5. Receivership

A. At the option of the City, subject to applicable law, this Franchise may be revoked after the appointment of a receiver or trustee to take over and conduct the business of Grantee or an Affiliated Entity whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless:

1. The receivership or trusteeship is timely vacated; or

2. The receiver or trustee has timely and fully complied with all the terms and provisions of this Franchise, and has remedies all defaults under this Franchise.

B. In the event that this Franchise is not revoked pursuant to subsection 13.4(A), the receiver or trustee shall execute an agreement duly approved by a court having jurisdiction, by which the receiver or trustee assumes and agrees to be bound by each and every term, provision and limitation of this Franchise.

13.6. Alternative Remedies

A. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages, as allowed under applicable law, or to seek and obtain judicial enforcement by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

B. The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation or protection otherwise available to the City, its officers, officials, City Council, Boards, commissions, agents, or employees under federal, State, or local law (including, for example, Section 635A of the Cable Act).

13.7. Remedies Cumulative

A. Neither the existence of other remedies identified in this Franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of either party to recover monetary damages, as allowed under applicable law, or to seek and obtain judicial enforcement by means of specific performance, injunctive relief or mandate, or any other remedy at law or in equity.

B. The City specifically does not, by any provision of this Franchise, waive any right, immunity, limitation or protection otherwise available to the City, its officers, officials, City Council, Boards, commissions, agents, or employees under federal, State, or local law (including, for example, Section 635A of the Cable Act).

13.8. Assessment of Liquidated Damages

A. Because it may be difficult to calculate the harm to the City in the event of a breach of this Franchise by Grantee, the parties agree to liquidate damages as a reasonable estimation of the actual damages.

1. Nothing in this subsection is intended to preclude the City from exercising any other right or remedy with respect to a breach that continues past the time the City stops assessing liquidated damages for such breach.

2. The City shall first follow the violation procedures in section 13 for written notice to Grantee and a thirty (30) day right to cure period under this Franchise before assessing liquidated damages.

B. The City shall not assess any liquidated damages if Grantee has cured or commenced to, and completes, the cure pursuant to this Franchise.

C. The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the City.

D. Liquidated damages as defined by this subsection may be assessed for no more than one hundred and eighty (180) calendar days for any individual incident, after which time the City may implement other remedies as defined in this Franchise and under applicable law.

E. The Grantee may appeal (by pursuing judicial relief) any assessment of liquidated damages within thirty (30) days of paying the assessment.

F. Pursuant to the requirements outlined herein, liquidated damages shall not exceed the following amounts:

1. One hundred dollars ($100.00) per day for material departure from the FCC technical performance standards;

2. One hundred dollars ($100.00) per day for failure to provide the Access Channel or any equipment related thereto which is required hereunder;

3. One hundred dollars ($100.00) per day for each material violation of the Customer Service Standards;

4. One hundred dollars ($150.00) per day for failure to provide reports or notices as required by this Franchise;

5. One hundred dollars ($250.00) per day for failure to comply with construction, operation, or maintenance standards; and

6. One hundred dollars ($250.00) per day for any material breaches or defaults not previously listed.

G. Grantee's maintenance of the security required herein or by applicable code shall not be construed to excuse unfaithful performance by Grantee of this Franchise; to limit liability of Grantee to the amount of the security; or to otherwise limit the City's recourse to any other remedy available at law or equity.

13.9. Effect of Abandonment

A. If Grantee abandons its Cable System during the Franchise term, or fails to operate its Cable System in accordance with its duty to provide continuous service, the City, at its option, may obtain an injunction, or operate the Cable System, or designate another entity to operate the Cable System temporarily until Grantee restores service under conditions acceptable to the City, or until the Franchise is revoked and a new franchisee is selected by the City.

B. If the City operates the Cable System, or designates another entity to operate the Cable System, Grantee shall reimburse the City or the City's designee, as applicable, for all reasonable costs and expenses incurred.

C. If Grantee permanently abandons its entire Cable System, for a period greater than 12 months, then, at the City's sole discretion, such Cable System may become the property of the City, and Grantee shall then submit to the City a bill of sale and other conveyance documents, to be approved in advance by the City Attorney, transferring ownership of such property to the City.

SECTION 14: FRANCHISE RENEWAL

Any renewal of this Franchise shall be governed by and comply with the provisions of Section 47 U.S.C. § 546, as amended, unless the procedures or substantive protections set forth therein shall be deemed to be preempted or superseded by the provisions of any subsequent federal or State law.

SECTION 15: FRANCHISE TRANSFER OR ASSIGNMENT

A. Subject to 47 U.S.C § 537, the Cable System and this Franchise shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any Person (hereinafter "Transfer of the Franchise") without the prior written consent of the City, which consent shall not be unreasonably withheld.

B. Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or acquisition by any other party in Control of Grantee. The word "Control" as used herein is not limited to majority stock ownership but includes actual working Control in whatever manner exercised. Every change, transfer or acquisition of Control of Grantee, except as noted in subsection 15.H, shall make this Franchise subject to cancellation unless and until the City shall have consented thereto which consent shall not be unreasonably withheld.

C. The parties to the Transfer of the Franchise or change of Control shall make a written request to the City for its approval of the Transfer of the Franchise or change of Control (a "Transfer Application") and shall furnish all information required by law. In

reviewing a Transfer Application, the City may inquire into any matter reasonably related to the ability and willingness of the prospective transferee or controlling party to perform, in accordance with 47 CFR § 76.502, and applicable DMCC.

D. In seeking the City's consent to a Transfer Application, the proposed transferee or controlling party shall indicate whether, as applicable, it:

1. Has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law, or is currently under an indictment, investigation or complaint charging such acts;

2. Has ever had a judgment in an action for fraud, deceit, or misrepresentation entered against it by any court of competent jurisdiction;

3. Has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a Cable System;

4. Is financially solvent, by submitting financial data, including financial information as required by FCC Form 394; and

5. Has the legal, financial and technical capability to enable it to maintain and operate the Cable System for the remaining Term of the Franchise.

E. In reviewing a Transfer Application, the City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and Grantee shall assist the City in so inquiring. The City may condition said Transfer of the Franchise or change of Control upon such terms and conditions as it deems reasonably appropriate and as are consistent with federal law; provided, however, that any such terms and conditions so attached shall be related to the legal, technical and financial qualifications of the prospective controlling party or transferee. Additionally, such Person shall effect changes as promptly as practicable in the operation of the Cable System, if any changes are necessary to cure any violations or defaults presently in effect or ongoing.

F. The City shall act by ordinance or resolution on the request within one hundred twenty (120) days of the request, provided it has received all information required by law, such as a completed FCC Form 394. Subject to the foregoing, if the City fails to render a final decision on the request within one hundred twenty (120) days, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

G. Within sixty (60) days of closing of any Transfer of the Franchise or change of Control, if approved or deemed granted by the City, Grantee shall file with the City a copy of the deed(s), agreement(s), lease(s) or other written instrument(s) evidencing such Transfer of the Franchise or change of Control, certified and sworn to as correct by Grantee and the transferee or new controlling entity. In the case of a Transfer of the Franchise or change

of Control, the transferee or the new controlling entity shall upon request by the City file its written acceptance agreeing to be bound by all of the provisions of this Franchise, subject to applicable law.

H. Notwithstanding anything to the contrary in this Section 15, the prior approval of the City shall not be required for any sale, assignment or transfer of the Franchise or Cable System to an Affiliate; provided that the proposed assignee or transferee agrees in writing to comply with all of the provisions of the Franchise, subject to applicable law.

I. Grantee may pledge the assets of the Cable System for the purpose of financing without the consent of the City; provided that such pledge of assets shall not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the provisions of this Franchise. In the event of a change in Control, the Grantee will continue to be bound by all provisions of the Franchise.

J. The consent or approval of the City to any Transfer of the Franchise or change in Control shall not constitute a waiver or release of any rights of the City.

SECTION 16: ADDITIONAL PROVISIONS

16.1. Cumulative Rights

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

16.2. Costs to be Borne by Grantee

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

16.3. Severability

If any Section, provision, or clause of this Franchise is held by a court of competent jurisdiction to be invalid or unenforceable, or is preempted by federal or State laws or regulations, the remainder of this Franchise shall not be affected, except as is otherwise provided by this Franchise.

16.4. No Recourse Against the City

Grantee's recourse against the City or its officials, boards, commissions, agents or employees for any claim arising from any provision or requirement of this Franchise shall be limited to injunctive and declaratory relief, except where Grantee's claim arises from acts or omissions of the City acting in a proprietary capacity, but only to the extent such relief is not prohibited

by federal law, which does not include granting, modifying, denying, terminating, or enforcing franchises.

16.5. Action by Agencies or Courts

Grantee shall promptly notify the City in the event that any agency of the State or federal governments or any court with competent jurisdiction requires Grantee to act inconsistently with any provisions of this Franchise.

16.6. Franchise Interpretation

A. All captions, headings or titles in the paragraphs or sections of this Agreement are inserted for convenience of reference only and shall not constitute a part of this Agreement or act as a limitation of the scope of the particular paragraph or sections to which they apply.

B. Interpretation or construction of this Agreement shall not be affected by any determination as to who is the drafter of this Agreement, this Agreement having been drafted by mutual agreement of the parties.

16.7. Choice of Law and Forum

A. This Franchise and the rights of the parties hereunder shall be governed by the interpreted in accordance with the laws of the State of Washington and venue for any action hereunder shall be in of the county in King County, Washington.

B. Subject to the limitations set forth in RCW 4.84.330, each party agrees to bear its own costs and attorneys' fees generated by any dispute arising out of this Franchise.

16.8. Force Majeure

A. If Grantee is prevented or delayed in the performance of any of its obligations under this Franchise by reason of acts of god, floods, fire, hurricanes, tornadoes, earthquakes, or other unavoidable casualties, insurrection, war, riot, vandalism, strikes, or sabotage, to the extent such events prevent performance by Grantee and such event is beyond Grantee's control, Grantee shall have a reasonable time under the circumstances to perform such obligation under this Franchise, or to get a substitute for such obligation to the satisfaction of the City.

B. If Grantee claims a force majeure event, Grantee shall give prompt written notice of the same to the City and shall set forth its plan of action to meet the obligations of this Franchise once the force majeure event no longer prevents Grantee's performance.

16.9. Conflict of Interest Cancellation

The City may, in its sole discretion, by written notice to Grantee, immediately terminate this Franchise if it is found, after due notice and examination by the City, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW.

16.10. Integration & Binding Effect

A. This Franchise, together with any subsequent amendments or addendums, constitutes the entire agreement of the Parties and no other understandings, oral or otherwise, regarding this Franchise shall exist or bind any of the parties.

B. This Franchise shall be binding upon, and the benefits and obligations provided for herein shall inure to and bind, the Parties and their respective successors and assigns, provided that this Section shall not be deemed to permit any transfer or assignment otherwise prohibited by this Franchise.

C. This Franchise is for the exclusive benefit of the Parties and it does not create a contractual relationship with, or exist for the benefit of, any third party, including contractors, subcontractors, affiliates, subsidiaries, or sureties.

16.11. Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by Grantee, such time shall be deemed to be of the essence, and any failure of Grantee to perform within the allotted time may be considered a breach of this Franchise.

16.12. Discriminatory Practices Prohibited

Throughout the term of this Franchise, Grantee shall fully comply with all equal employment and nondiscrimination provisions of applicable law.

16.13. No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties, and neither party is authorized to, nor shall either party act towards third Persons or the public in any manner which would indicate any such relationship with the other, nor is Grantee granted any express or implied right or authority to assume or create any obligation or responsibility on behalf, or in the name, of the City.

16.14. Waiver

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

succeeding breach of such provision, or as a waiver of the provision itself or any other provision.

16.15. Notice

Unless otherwise agreed to by the parties, any notice provided for under this Franchise shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party specifies in writing:

Grantee's address shall be:

Comcast Cable Communications Management, LLC
4020 Auburn Way N
Auburn, WA 98002
Attention: Franchise Director

With a copy to:

Comcast Cable Communications Management, LLC
15815 25th Ave W
Lynnwood, WA 98087
Attention: Franchising Department

City's address shall be:

City of Des Moines
City Clerks Office
21630 11th Ave. S., Suite A
Des Moines, WA 98198
Attention: City Clerk

EXHIBIT

STATEMENT OF ACCEPTANCE

_____, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions, and provisions of the preceding Franchise attached hereto and incorporated herein by this reference.

[Grantee]

By: _____ Date: _____
Name:
Title:

State of _____)
) ss.
Count of _____)

On this ___ day of _____, 20___, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, _____ personally appeared and executed the foregoing instrument and acknowledged that said execution is performed freely and voluntarily for the uses and purposed described within the instrument, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

_____
Signature

Notary Public in and for the State of _____
Residing at _____

MY COMMISSION EXPIRES: _____

Memo

Date: August 1, 2019

To: Council Ad Hoc Franchise Committee

From: Laura Techico, AICP – Principal Planner

RE: Recology Recycling Rate Adjustment Request

Purpose
The purpose of this memorandum is to provide the Council Ad Hoc Franchise Committee with an update on the status of discussions on Recology's recycling rate adjustment request and amendments adopted in other cities.

Background
In 2011, the City entered into a solid waste collection agreement with Recology for collection services through October 31, 2018. The first of two 2-year extensions was authorized by the City Council, extending service through October 31, 2020.

Starting in 2017, policy changes in China and other countries have impacted global recycling markets by changing material specifications, import bans, tariffs and other restrictions. Collection companies have been faced with decreasing prices for recycled materials and increasing costs for processing and shipping.

On August 13, 2018, the City received a request from Recology for a recycling rate adjustment to address rising costs in equipment, employees, and education and outreach. The City began coordination with other Recology contract cities with a goal of creating a consistent approach and draft contract amendment template. While there were many areas of agreement, a variety of independent actions were taken, ranging from no action to contract amendments with variations in approaches.

As of July 2019, three Recology cities have adopted contract amendments: SeaTac, Burien, and Shoreline. Their amendments are Attachments 1-3 respectively. A summary of each is below.

City of SeaTac
- $1.35/month sustainability adjustment for single family
- $4.50/cubic yard for multi-family and commercial
- City and Recology to develop and implement contamination monitoring protocol and enforcement procedures for multi-family and commercial customers.

City of Burien
- $1.35/month collection fee component for single family
- $2.25/cubic yard for multi-family and commercial
- Contractor to develop and implement program to reduce contamination (outreach, 'Golden Cart' award program, etc.)

City of Shoreline

- $1.35/month collection fee component for single family
- $2.10/cubic yard for multi-family and commercial
- Contractor to implement robust education and promotion plan
- Contamination monitoring and enforcement protocol for multi-family and commercial submitted annually for review
- After 24 months, if not hitting targets, Recology may implement single family monitoring and enforcement

Direction

Staff requests the Committee's input and direction on the preparation of a draft contract amendment for the consideration of the full City Council with a rate change, if any, to take effect January 1, 2020 with the annual CPI adjustment. Staff's recommendation is to adopt a similar amendment to Shoreline's with the primary focus on education, multi-family and commercial customers, and lower collection fee increases.

FIRST AMENDMENT TO COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES COLLECTION CONTRACT

This First Amendment to Comprehensive Garbage, Recyclables and Compostables Collection Contract ("Amendment") is entered into as of September ___, 2018 between the City of SeaTac, a municipal corporation of the State of Washington ("City"), and Recology CleanScapes Inc., a Washington corporation ("Contractor").

WHEREAS, City and CleanScapes, Inc. entered into a Comprehensive Garbage, Recyclables and Compostables Collection Contract dated October, 2013 (the "Collection Agreement"), which was subsequently assigned to Contractor; and

WHEREAS, the parties wish to amend the Collection Agreement to accommodate changes in market conditions for recyclable materials and ensure that such materials continue to be diverted from landfills to the extent possible;

NOW, THEREFORE, the parties agree as follows:

1. A new Section 3.5 is hereby added to the Collection Agreement, which shall read in its entirety as follows:

"3.5 Sustainability Adjustment

3.5.1 In order to fund the increased costs of the recycling program, including increased costs associated with the processing and marketing of Recyclables, as well as additional education, contamination enforcement and long term planning costs, a sustainability adjustment shall be added to each rate charged by the Contractor for recurring service (the "Sustainability Adjustment"). The Sustainability Adjustment shall take effect on January 1, 2019 and shall terminate on May 31, 2021. The Sustainability Adjustment shall initially be One Dollar and Thirty Five Cents ($1.35) per month for each Single-Family Residence Customer regardless of service level, and Four Dollars and Fifty Cents ($4.50) per month for each cubic yard of solid waste service for Multi-Family Complex and Commercial Customers. The Sustainability Adjustment shall be subject to the senior low-income and disabled resident discount for qualifying Single-Family Residence Customers. The Sustainability Adjustment shall be adjusted semi-annually as provided in Section 3.5.2, which adjustments shall be in addition to any other adjustment provided for in this Agreement.

3.5.2 On January 31, 2019, and every six months thereafter, the Contractor shall submit a report that indicates the previous six month's Processing Costs, Commodity Revenue and Net Processing Costs, a comparison of such numbers to the six months prior to the evaluation period, and a calculation of the proposed Sustainability Adjustment effective on the following new sustainability adjustment effective date identified in Section 3.5.2.1. The City shall either approve the proposed Sustainability Adjustment or, if City reasonably believes that the proposed Sustainability Adjustment exceeds the amount necessary to cover anticipated processing costs, modify the proposed Sustainability

Adjustment accordingly. The City shall not be required to increase the Sustainability Adjustment in excess of the initial amount effective on January 1st 2019, as further described in Section 3.5.1. However, if the Contractor submits documentation and justification as to why the Sustainability Adjustment should be increased above that level, such request shall be reviewed by the City Council and either approved or denied within 90 days. If approved, each increase will take effect on the following new adjustment effective date identified in Section 3.5.2.1.

3.5.2.1 The following deadlines are applicable to any adjustments to the adjustment.

Evaluation Period:	Report to City Due by:	City Decision by:	Notice to Customers by:	New Sustainability Adjustment effective date:
January 1st – June 30th	July 31st	August 10th	August 15th	October 1st
July 1st – December 31st	January 31st	Feb 10th	February 15th	April 1st

3.5.3 The following definitions shall apply:

(a) "Commodity Revenue" means the average revenue, per ton of inbound material, from the sale of commodities produced at the MRF over a six-month period.

(b) "Net Processing Costs" means Processing Costs for a six-month period less Commodity Revenue for the same six month period.

(c) "Processing Costs" means the average cost, per ton of inbound material, of operating Contractor's materials recovery facility (the "MRF"), including but not limited to the cost of disposing of Residue, over a six-month period.

(d) "Contaminated" means having 10% or more by visual volume of incorrectly placed or prepared materials in the Recyclables or Compostables Container.

(e) "Residue" means the material separated during the processing of Recyclables that has no market value."

2. Section 2.1.12 of the Collection Agreement is hereby amended to add the following as the last paragraph thereof:

"The City and Recology will work together to develop and implement a contamination monitoring protocol and enforcement procedures for multi-family and commercial customers that include the following elements: regular curbside contamination monitoring and documentation; timely customer notification of contamination occurrences; and progressive enforcement including warning letters, contamination fees and the potential removal of services. The protocol will be finalized by December 15, 2018, with a planned

implementation of January 1, 2019. The Director of Public Works is hereby authorized to approve the protocol and procedures on behalf of the City, including establishing a contamination fee for each occurrence of a contaminated container not to exceed Ten Dollars ($10.00) per cubic yard of container size for Multi-Family Complex and Commercial Customers.

- **Long Term Solutions with Benchmarks for Success:** Recology will participate in state and regional efforts to address the following issues and report yearly on their progress to;

    - Increase domestic processing capabilities of commodities.
    - Create standard recyclable labels.
    - Increase recyclable content of products."

3. "Plastic Bags & Films" is hereby deleted from the list of Recyclables in Attachment C of the Collection Agreement.

4. Except as modified by this Amendment, the Collection Agreement shall remain in full force and effect. In the event of any conflict between this Amendment and the Collection Agreement, this Amendment shall govern.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this First Amendment to Comprehensive Garbage, Recyclables and Compostables Collection Contract as of the date first written above.

CITY OF SEATAC

_____
Joseph Scorcio, City Manager

Date:_____

RECOLOGY CLEANSCAPES, INC.

_____
_____

Date:_____

Approved as to Form:

_____
City of SeaTac Legal Department

AMENDMENT #1
TO THE COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES COLLECTION CONTRACT
BETWEEN
CITY OF BURIEN
AND
RECOLOGY CLEANSCAPES INC.

This AMENDMENT #1 is made and entered into this _____ day of October, 2018 by and between the City of Burien, a Washington municipal corporation ("City"), and Recology CleanScapes Inc. (f/k/a CleanScapes, Inc.), a Washington corporation ("Contractor").

WHEREAS, the parties previously entered into a Comprehensive Garbage, Recyclables and Compostables Collection Contract approved by the Burien City Council on September 16, 2013 and with an effective date of June 1, 2014 ("Contract"); and

WHEREAS, the international and domestic markets for the recyclables collected from residents and businesses by the Contractor have undergone significant adverse changes since the Contract was developed; and

WHEREAS, some materials are no longer feasibly recyclable, and the existing levels of contaminants in the collected recyclables and changes in market acceptance standards now require changes to the City's recycling collection programs; and

WHEREAS, the parties desire to amend certain terms and conditions of the Contract related to adjusting to changing market conditions for recyclables materials;

NOW THEREFORE, in consideration of the terms, conditions, and covenants contained herein, the parties agree as follows:

Section 1: Certain customer rates set forth on Attachment B of the Contract shall be adjusted to reflect the Contractor's increased cost of processing recyclable materials due to changes in the commodity market and the cost of reeducating customers as to new preparation requirements. The Collection Fee (i.e. non-Disposal Fee) component of all regular (i.e. monthly or weekly) container collection rates shall be increased by $1.35 per month for single-family residential customers and increased by $2.25 per cubic yard of garbage collected monthly for multifamily and commercial customers, effective January 1, 2019. This increase in the Collection Fee component of those rates shall be subject to the CPI adjustments set forth in Section 3.3.1 of the Contract effective January 1, 2020 and each January 1 thereafter. This special rate adjustment shall not apply to ancillary services, extra units, container rental, and other such fees.

Section 2: Certain sections of the Contract identified below are hereby amended to read as follows:

Contract Section 2.1.12 Requirement to Recycle and Compost is revised as follows:

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

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

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

The Contractor may refuse to collect o~~O~~bvious contaminants included with either Source-Separated Recyclables or Compostables. In that event, the Container's contents shall not be collected and shall instead be left in the Customer's Container with a prominently displayed notification tag (per Section 2.1.10) explaining the reason for rejection. If the Contractor identifies repeated contamination by a Customer despite Contractor's tagging and educational efforts, the Contractor may charge the Customer the Contamination Fee set forth in Attachment B, and/or remove the Customer's Recyclables and/or Compostables Container.

The Contractor shall develop and implement a program to reduce contamination in Customers' Recyclables and Compostables Containers. The Contractor's program may include communication, education and outreach to Customers, and methods for evaluating Customer compliance with recycling and contamination standards, which shall involve a minimum of twice-yearly reviews of contamination in Customer Containers. As part of the education and outreach component, the Contractor shall attend two City-sponsored events, as directed by the City, with the purpose of promoting good recycling practices.

As part of the overall contamination reduction program, the Contractor shall implement and manage a recycling incentive program, to be called the "Golden Cart and Dumpster Award Program" or similar. The program will run on an annual basis, beginning on January 1, 2019. Under it, the Contractor shall award a total of $17,500 each year to Customers whom the Contractor determines have demonstrated strong compliance

with recycling and contamination standards. The awards may take the form of credits or discounts to the Customer's bill.

Additionally, the Contractor agrees to hold quarterly "Where Does It Go Workshops" at its Burien retail location to provide instruction for interested residents and businesses on the proper ways to recycle material.

Contractor agrees to implement a "Waste Wise" program to educate Multifamily Customers, which entails door-to-door Customer education in Multifamily complexes for the purpose of educating residents and property managers on the importance reducing contamination.

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.

Contract Attachment B, Contractor Rates, is amended as set forth in Section 1 of this Amendment, and to add the following fee:

Contamination Fee (chargeable on 3rd and any subsequent occurrence of contamination >5% for Recyclables or >3% for Compostables, provided warning tags and outbound calls to impacted customers were provided for first 2 occurrences)	$20.00 per cart for Single-family Residence Customers $25.00 per cubic yard of Container size (or per cart, for cart Customers) for Multifamily Complex or Commercial Customers

In witness whereof, the parties hereto have executed this Amendment to the Comprehensive Garbage, Recyclables and Compostables Contract as of the day and year first written above.

CITY OF BURIEN

By_____

ATTEST:

By_____

APPROVED AS TO FORM:

By_____

RECOLOGY CLEANSCAPES INC.

By_____

Council Meeting Date: June 3, 2019 **Agenda Item:** 8(a)

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Amendment # 1 to the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Contract with Recology CleanScapes Inc.
DEPARTMENT:	Public Works
PRESENTED BY:	Randy Witt, Public Works Director
ACTION:	____ Ordinance ____ Resolution __X_ Motion ____ Discussion ____ Public Hearing

PROBLEM/ISSUE STATEMENT:
In 2016, the City Council entered into a 10-year contract for the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Services with Recology CleanScapes Inc. (Recology). The contract was adopted on May 2, 2016, and collection services under the new contract started on March 1, 2017.

In July of 2017, changes in market conditions started adversely affecting recycling economics around the world, but especially in North America's west coast markets that relied on marketing most materials to Chinese and other Asian companies. The changing material specifications, import bans, tariffs and other disruptions have forced local collection companies to increase processing levels, shift to other markets with higher shipping costs, and more aggressively control contamination levels, all in a market with dropping prices for recycled materials.

In August 2018, Recology requested an adjustment to the contract rates to address these changes and to improve the quality and processing of recycling materials. Staff and Recology have negotiated an amendment to certain terms and conditions of the contract related to the changing market conditions for recyclables materials, including a rate adjustment. This amendment was discussed at the March 18, 2019 and April 1, 2019 City Council meetings.

During these previous discussions with the City Council, questions were raised regarding any program that would include the review of individual recycling or compost bins. Staff has made changes to the proposed amendment in response to those questions. The amendment before Council tonight requires an extensive 6-month education and promotion program, that requires additional efforts beyond the on-going educational requirements of the contract. By November 1 of each year, Recology must submit an annual contamination monitoring protocol and enforcement procedure for commercial and multifamily customers for approval by the City Manager. Recology must provide 90 days notice to customers before implementation. If contamination levels are still in excess of the targets 24 months (2 years) after execution of this

amendment, then Recology, at its sole discretion, may implement further efforts to decrease contamination rates among single-family customers. The action before the Council tonight is approval of Amendment # 1 to the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Contract with Recology CleanScapes Inc.

RESOURCE/FINANCIAL IMPACT:

This proposed amendment will increase single-family residential customers collection rates by $1.35 per month and multifamily and commercial customers by $2.10 per yard of garbage collected monthly. This rate increase will provide an estimated additional annual revenue of approximately $572,000 for Recology to intensify their efforts to eliminate problematic materials from recyclable materials at collection points. The City's administrative fee revenue on the rate increase will generate approximately $70,000 in additional City revenues, funding that could be used for City support of the proposed contractual and recycling program changes as well as for other environmental services.

RECOMMENDATION

Staff recommends that Council authorize the City Manager to execute Amendment # 1 to the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Contract with Recology CleanScapes Inc.

Approved By: ___ City Manager ___ City Attorney

BACKGROUND

In 2016, the City Council entered into a 10-year contract for the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Services with Recology CleanScapes Inc. (Recology). The contract was adopted on May 2, 2016, and collection services under the new contract started on March 1, 2017.

When the City competitively procured this collection contract, most collected recyclable paper fiber and plastic materials were marketed to large consumers in China. The markets at that time were based around the needs of China's consuming mills, which allowed higher contamination levels than were traditionally accepted by domestic end-users. Historically, Chinese mills permitted 10% or more contamination in imported bales of paper and plastics. In January 2018, the Chinese Government implemented regulations that mandated that its importing mills will only accept bales containing a contamination level of less than 0.5% impurities, and in May 2019 imports of recyclable material were halted. Other countries in Southeast Asia accept recycled materials with contamination levels higher than a 0.5% impurity level; however, these markets involve greater shipping costs and pay lower prices.

The City's contract with Recology allows that in the event of unforeseen temporary market circumstances that preclude or prevent compliance with the Contract's restrictions on disposal of collected recyclables and material contamination standards, Recology may request a temporary adjustment or other relief. For changes due to the market value of recyclables, the unforeseen market conditions must persist for more than nine months, after which Recology and the City may engage in good faith negotiations to determine a mutually acceptable course of action. This market situation led Recology to request adjustments to customer rates to reflect their increased costs. Staff retained a consultant, Jeff Brown from Epicenter Services, to assist in reviewing the request and assist with contract amendment negotiations. The proposed amendment reflects the results of those negotiations.

Proposed amendments were discussed at the March 18, 2019 and April 1, 2019 City Council meetings. The staff report for the March 18th meeting can be found at http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2019/staffreport031819-8b.pdf, and the staff report for the April 1st meeting can be found at http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2019/staffreport040119-8b.pdf.

DISCUSSION

In response to changed conditions for recycling markets, Recology originally proposed a significant increase to customer rates in order to make capital improvements to their Materials Recovery Facility (MRF) to allow it to handle a high level of incoming contamination, and to produce higher quality outbound material for domestic and export end-users. Staff concluded, however, that the proposed solution does not address the "root cause" of the contamination at the customer point of collection, creates a long-term expectation that operations at the MRF will sort recyclable materials and then dispose of the garbage (at a higher cost for both activities), and increases the work and cost

required to produce quality outbound recyclable material. Importantly, it also did not support the Council's environmental goals.

The City and Recology negotiated a proposed amendment that provides a rate increase with a requirement to reduce contamination at the source, and a principal goal to maintain an inbound contamination level from City customers of no greater than five percent (5%) by volume for collected Recyclables and no greater than three percent (3%) by volume for collected Compostables.

More specifically, the amendment includes an enhanced education and outreach program, with specific activities and deliverables through the end of 2019; monthly pad inspections along Recology routes to identify contaminants and develop targeted education and outreach efforts; development of an annual contamination and monitoring protocol and enforcement procedure for commercial and multifamily customers; establishment of a fee for the collection of contaminated recycling or compost containers as garbage for commercial and multifamily customers; and authorization for Recology to undertake, in extreme cases, the removal of recycling cart/containers from commercial and multifamily customers unable or unwilling to use the system properly. It also provides rate funding for processing improvements at the MRF. If 24 months (2 years) following execution of this amendment, contamination rates are still in excess of the targets, then Recology, at its sole discretion, can institute further efforts to decrease contamination rates among single family customers. The proposed Amendment # 1 to the Recology contract is in Attachment A.

April 1, 2019 City Council Discussion

At the April 1, 2019 Council meeting, staff presented an overview of the amendment with a focus on the plan to reduce contamination in customers' recyclable and compostable containers. In that discussion, there were a few issues that required clarification or additional information that may be useful to the Council's discussion tonight. The Amendment has been revised to include actions in the discussion below.

Enhanced Education and Outreach

With approval of the amendment, Recology is to undertake a robust outreach and education program (Attachment A), with specific deliverables through the end of 2019, to inform and educate all Shoreline customers of recyclable material list changes and recycling best practices. During that time, Recology will administer visual inspections of aggregate truck contents from City routes (*i.e.*, a "pad inspection" where recycle material from a truck is emptied on a pad and an assessment of the contamination is made). These will occur once a month targeting different routes. Based on pad inspection results, Recology will conduct targeted outreach to customers on individual routes found to have contamination in excess of acceptance standards.

Language Accessibility

Language accessibility has been incorporated in base requirements for annual education and promotion programs, per the following: Recology will provide translation services on an as needed basis in conjunction with all promotion, education and outreach efforts.

Commercial and Multifamily Contamination Monitoring Protocol and Enforcement Procedure

The amendment has been revised to include a contamination monitoring protocol and enforcement procedure specifically for commercial and multifamily customers. Recology is to develop and implement an annual contamination monitoring protocol and enforcement procedure, which is to be submitted to the City by November 1st of each year. This protocol must include the following elements: regular contamination monitoring and documentation; timely customer notification of contamination occurrences; and progressive enforcement, including warning letters or phone calls, fees for collection of contaminated recycling or compost containers as garbage, and the potential removal of services.

Contamination Reduction for Single-Family

If after twenty-four months (2 years) from the execution of this amendment contamination rates still exceed the targets, Recology, at its sole discretion, may institute further efforts to decrease contamination rates among single family customers.

Fee for Collection of Contaminated Recycling or Compost Containers as Garbage for Commercial and Multifamily Customers

There was discussion on the "Contamination Fee" for the collection of recycling or compostable containers with contamination in excess of the thresholds in the amendment as garbage. The term "Contamination Fee" seemed to convey a punitive action rather than a fee for service. To clarify this, this fee is now called a "Fee for Collection of Contaminated Recycling or Compost Containers as Garbage" and would only apply to commercial and multifamily customers. There is no proposed fee amendment that would apply to single-family customers.

Rate and Revenue Changes and Proposed Ordinance No. 858

The contract amendment will provide an increase in customer rates of $1.35 per month per single-family residential customer, and an increase of $2.25 per cubic yard of garbage collected each month from multifamily and commercial customers. These rates will become effective August 1, 2019.

The following table provides a summary of the revised rates with the changes in the proposed amendment for select residential and commercial service levels.

City of Shoreline
Fee Schedules

3.01.500 Solid Waste Rate Schedule Effective 8/1/2019				
Solid Waste Rate Schedule from CleanScapes				
Service Level	**Pounds Per Unit**	**Disposal Fee**	**Collection Fee**	**2019 Total Fee**
A. MONTHLY				
1. One 32-gallon Garbage Cart	4.43	$ 1.35	$ 10.07	$ 11.42
B. WEEKLY RESIDENTIAL CURBSIDE SERVICE				
1. One 10-gallon Garbage Micro-Can	6.00	$ 1.83	$ 12.44	$ 14.27
2. One 20-gallon Garbage Cart	12.00	$ 3.66	$ 16.66	$ 20.32
3. One 32/35 -gallon Garbage Cart	19.20	$ 5.86	$ 20.55	$ 26.41
4. One 45-gallon Garbage Cart	27.00	$ 8.25	$ 27.79	$ 36.04
5. One 60/64-gallon Garbage Cart	38.40	$ 11.74	$ 29.38	$ 41.12
6. One 90/96-gallon Garbage Cart	57.60	$ 17.60	$ 33.54	$ 51.14
D. WEEKLY COMMERCIAL & MULTIFAMILY CAN AND CART				
1. One 20-gallon Garbage Cart	12.00	$ 3.66	$ 14.77	$ 18.43
2. One 32/35-gallon Garbage Cart	19.20	$ 5.86	$ 16.65	$ 22.51
3. One 45-gallon Garbage Cart	27.00	$ 8.25	$ 19.16	$ 27.41
4. One 60/64-gallon Garbage Cart	38.40	$ 11.74	$ 22.22	$ 33.96
5. One 90/96-gallon Garbage Cart	57.60	$ 17.60	$ 25.55	$ 43.15
E. WEEKLY COMMERCIAL DETACHABLE CONTAINER (COMPACTED)				
1. 1 Cubic Yard Container	394.80	$ 120.63	$ 111.80	$ 232.43
2. 1.5 Cubic Yard Container	789.60	$ 241.28	$ 206.34	$ 447.62
3. 2 Cubic Yard Container	1,184.40	$ 361.91	$ 300.89	$ 662.80
4. 3 Cubic Yard Container	1,579.20	$ 482.55	$ 410.04	$ 892.59
5. 4 Cubic Yard Container	1,974.00	$ 603.19	$ 519.21	$ 1,122.40
F. COMMERCIAL DETACHABLE CONTAINER (LOOSE)				
1. 1 Cubic Yard, 1 pickup/week	112.80	$ 34.47	$ 71.20	$ 105.67
2. 1 Cubic Yard. 2 pickups/week	225.60	$ 68.93	$ 135.86	$ 204.79

In addition, a Fee for Collection of Contaminated Recycling or Compost Containers as Garbage of $25.00 per cubic yard of container size for Multifamily Complex or Commercial customers is established.

The full rate schedule with current and revised rates is attached in Attachment B. There is a separate staff report for Ordinance No. 858, which is item 8(b) on tonight's Council agenda.

Combined, the change in the single-family residential, and multifamily and commercial rates from the proposed amendment are estimated to generate additional annual revenue of approximately $572,000 for Recology. The City will also receive an estimated additional $70,000 through the administrative fee on the increase in contractor revenue related to this amendment.

Staff Impacts

Staff will be involved in development and review of enhanced education and outreach efforts to reduce recycling contamination in Shoreline. Supporting these activities may require contracting out some work activities or hiring part-time or extra help staff to ensure program success. The additional administrative fee revenue generated through

Amendment # 1 could be used to fund City implementation efforts and on-going contract support, as well as other environmental services.

Summary
Staff recommends the proposed amendment as the most reasonable way to provide a sustainable increase in the quality of materials collected in Shoreline. Reducing contamination at the source is more cost-effective in the long term than attempting to process increasing levels of contamination. However, this will require a significant effort on the part of Recology to educate customers as well as monitor and enforce preparation requirements of recyclables. Additionally, the City will need to support Recology in education and outreach efforts.

COUNCIL GOAL(S) ADDRESSED

This amendment implements City Council Goal 2: Continue to deliver highly-valued public services through management of the City's infrastructure and stewardship of the natural environment, Action item number 4 - Implement the 2019-2021 Priority Environmental Strategies by achieving citywide Salmon-Safe certification, developing a citywide plan based on the Station Subarea Climate Action Analysis recommendations, and exploring ways to increase rates of solid waste diversion through enhanced recycling and composting. (Emphasis added to highlight recycling and composting).

RESOURCE/FINANCIAL IMPACT

This proposed amendment will increase single-family residential customers collection rates by $1.35 per month and multifamily and commercial customers by $2.10 per yard of garbage collected monthly. This rate increase will provide an estimated additional annual revenue of approximately $572,000 for Recology to intensify their efforts to eliminate problematic materials from recyclable materials at collection points. The City's administrative fee revenue on the rate increase will generate approximately $70,000 in additional City revenues, funding that could be used for City support of the proposed contractual and recycling program changes as well as for other environmental services.

RECOMMENDATION

Staff recommends that Council authorize the City Manager to execute Amendment # 1 to the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Contract with Recology CleanScapes Inc.

ATTACHMENTS

Attachment A: Proposed Amendment # 1 to the City's 2017 – 2027 Comprehensive Garbage, Recyclables, and Compostables Collection Contract with Recology CleanScapes Inc.
Attachment B: Exhibit A to Proposed Ordinance No. 858

ATTACHMENT A

AMENDMENT #1
TO THE COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES COLLECTION CONTRACT
BETWEEN
CITY OF SHORELINE
AND
RECOLOGY CLEANSCAPES INC.

This AMENDMENT #1 is made and entered into this _____ day of _____, 2019 by and between the City of Shoreline, a Washington municipal corporation ("City"), and Recology CleanScapes Inc. a Washington corporation ("Contractor").

WHEREAS, the parties previously entered into a Comprehensive Garbage, Recyclables and Compostables Collection Contract dated May 25, 2016, Shoreline Receiving No. 8518 ("Contract"); and

WHEREAS, the international and domestic markets for the recyclables collected from residents and businesses by the Contractor have undergone significant adverse changes since the Contract was developed; and

WHEREAS, some materials are no longer feasibly recyclable, and the existing levels of contaminants in the collected recyclables and changes in market acceptance standards now require changes to the City's recycling collection and education programs; and

WHEREAS, the parties desire to amend certain terms and conditions of the Contract related to adjusting to changing market conditions for recyclables materials;

NOW THEREFORE, in consideration of the terms, conditions, and covenants contained herein, the parties agree as follows:

Section 1. **Rates.** Certain customer rates set forth on Attachment B of the Contract shall be adjusted to reflect the Contractor's increased cost of processing recyclable materials due to changes in the commodity market and the cost of re-educating customers as to new preparation requirements. The Collection Fee (i.e. non-Disposal Fee) component of all regular (i.e. monthly or weekly) container collection rates shall be increased by $1.35 per month for single-family residential customers and increased by $2.25 per cubic yard of garbage collected monthly for multifamily and commercial customers, effective August 1, 2019. This increase in the Collection Fee component of those rates shall be subject to the CPI adjustments set forth in Section 3.3.1 of the Contract effective January 1, 2020 and each January 1 thereafter. This special rate adjustment shall not apply to ancillary services, extra units, container rental, and other such fees.

Section 2. **Contract Section 3.1.12 Requirement to Recycle and Compost, Maintaining Quality Assurance Through Monitoring is revised as follows:**

The Contractor shall recycle all Source-separated Recyclables collected and compost all Source-separated Compostables collected, unless express prior written permission is provided by the City. The City's goal is to maintain an inbound contamination level of no greater than ~~ten~~ five percent (~~10~~5%) by volume for collected Recyclables and no greater than three percent (3%) by volume (Inbound Contamination Levels) for collected Compostables. The Contractor shall use facilities that:

Process materials to a high standard to maximize the recovery and recycling of all ~~incoming~~ marketable recyclable and compostable materials;

- Are operated to minimize cross-contamination of materials that would result in otherwise Recyclable or Compostable materials being misdirected to a market or disposed where they would not be recovered;
- Are designed and operated to minimize the residual stream of otherwise Recyclable or Compostable materials destined for disposal; and
- Have sufficient pre-process screening staff, and equipment to ensure that otherwise recoverable materials do not cross-contaminate other separated Recyclable materials that are incompatible for the intended market consumer, rendering materials non-recyclable.

~~The City and Contractor agree that the Contractor is being fully compensated to recycle or compost materials to the highest level possible in keeping with specifications of market consumers. To this end, maximum cost-effective recovery is a primary objective of the City's collection programs.~~

~~Concurrently with the start of this Contract, the Contractor shall implement an on-route quality assurance program for Recyclables and Compostables consistent with industry best management practices for tagging, probationary periods, material rejection, and suspension of service. Attachment C contains flowcharts for current best management practices for route monitoring for both Single-family Residential and Commercial/Multifamily sectors. The Contractor and City shall annually review and update these procedures via mutual agreement to ensure that contamination problems are addressed promptly, fairly and consistently for all sectors.~~

The Contractor shall immediately implement activities outlined in the annual education and promotion plan, per Section 3.3.5. By November 1 of each year, the Contractor shall submit an annual contamination monitoring protocol and enforcement procedure for commercial and multifamily customers for approval by the City Manager or his or her designee. The annual contamination monitoring protocol and enforcement procedure for commercial and multifamily customers shall include the following elements: regular contamination monitoring and documentation; timely customer notification of contamination occurrences; and progressive enforcement including warning letters or

phone calls, fees for collection of contaminated recycling or compost containers as garbage, and the potential removal of services.

The Contractor must inform customers of the contamination monitoring protocol and enforcement procedure at least 90 days before implementation. If the Contractor chooses to charge a fee for collection of contaminated recycling or compost containers as garbage for commercial and multifamily customers, such fees shall not be charged prior to January 1, 2020, and may only be implemented if monthly pad inspections along City routes show that aggregate data does not meet Inbound Contamination Levels. Any fee for collection of contaminated recycling or compost containers as garbage for commercial and multifamily customers must be in accordance with the annual contamination monitoring protocol and enforcement procedure and Attachment B.

Twenty-four (24) months after the amendment, if the aggregate data does not meet inbound contamination levels of no more than five percent (5%) by volume for collected Recyclables and no greater than three percent (3%) by volume for collected Compostables, the Contractor may, in its sole discretion, institute further efforts to decrease contamination rates among single family customers. The Contractor must inform customers of contamination protocol and procedures at least 90 days before implementation.

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

Section 3. **Contract Section 4.3.4 Other Modifications is revised as follows:**

Except as otherwise expressly provided for by this Contract, Contractor shall not adjust or modify rates due to employee wage increases, changes in Compostables processing fees other than directed by the City subject to 4.3.3, Garbage collection service level shifts, or other changes affecting the collection system.

In the event that unforeseen ~~temporary~~ market circumstances prevents or precludes compliance with the recycling requirements of Section 3.1.12, the Contractor may request a temporary rate adjustment or other relief from the requirements of that Section 3.1.12. If the City determines that an adjustment is appropriate, the City and Contractor shall negotiate in good faith the amount and mechanism of any commodity value rate adjustment, with any adjustments to occur in conjunction with overall annual rate adjustments. In connection with this review, the City and Contractor may also consider whether it is desirable to change the list of Recyclable materials in Attachment D.

The City may request any and all documentation and data reasonably necessary to evaluate such request by the Contractor, and may retain, at its own expense, an independent third party to audit and review such documentation. ~~and such request~~. If such third party is

retained, the City shall take reasonable steps, consistent with State law, to protect the confidential or proprietary nature of any data or information supplied by the Contractor.

~~If an unforeseen market circumstance persists more than nine (9) months, the Parties agree to engage in good faith negotiations to determine a mutually acceptable course of action, including but not limited to eliminating the materials from the list of Recyclables, changing Customer preparation requirements, modifying Contractor rates, or any other mutually-agreeable solution.~~

Section 4. **Contract Section 3.3.4.1 Monthly Reports, is amended to add the following report:**

11. A summary of contamination reduction efforts during the previous month.

Section 5. **Contract Section 3.3.4.2 "Annual Reports", is amended to add the following Annual Report:**

11. Recyclable and compostable market conditions report.

Section 6. **Contract Attachment B, Contractor Rates, is amended as set forth in Section 1 of this Amendment, and to add the following fee:**

Fee for Collection of Contaminated Recycling or Compost Containers as Garbage	$25.00 per cubic yard of Container size (or per cart, for cart Customers) for Multifamily Complex or Commercial Customers

Section 7. **Contract Section 3.3.5 Promotion and Education, is revised as follows:**

3.3.5 Promotion and Education

The Contractor, at its own cost and at the direction and approval 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, on-site commercial Recycling and Compostables technical assistance, distribution of City-developed promotional and educational pieces at the City's direction, and implementation of on-going recycling promotions, education, and outreach programs at the direction of the City. All written materials, Customer surveys and other general communications provided to Customers by the Contractor shall be approved in advance by the City. 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. This Annual Education and Promotion Plan (Education Plan) must include items included in Amended Attachment C, as the same may be adjusted from time to time by the

City Manager or his or her designee. Contractor's changes to the Education Plan from year to year should include education targeted to address issues raised through the date of the previous year's monthly contamination reports. The Education Plan will be updated annually and reported upon in the monthly and annual reporting, as outlined in sections 3.3.4.1 and 3.3.4.2 of this Contract. The Contractor shall develop a 2019-2020 Education Plan no later than July 1, 2019 that, in addition to the activities listed in this contract and Amended Attachment C, will inform and educate all Shoreline customers of the need for good recycling practices, updated service guidelines, recyclable material list changes, recycling tips and other educational and recycling resources. For the period of July 1, 2019 through December 31, 2019, the Education Plan will also include efforts and items listed in Attachment I.

The Contractor shall contact, at the City's request, the manager or owner of Multifamily Complex sites to encourage recycling participation, address concerns, space or contamination problems, provide outreach to residents, and inform the manager or owner of all available services and ways to decrease Garbage generation. The Contractor shall coordinate and work cooperatively with City staff and/or consultants hired to conduct outreach and education and provide technical assistance.

The Contractor shall, at the City's request, address concerns, space or contamination problems, and offer additional education or training to tenant businesses. The Contractor's educational efforts to Commercial Customers shall include offering to perform no-cost waste audits to determine areas that need improvement, developing and covering the cost of stickers or signage for interior collection containers, and delivering Commercial Customer program packets to the Commercial Customers or their tenants, as requested by the Commercial Customer, a commercial tenant, or the City. The Contractor shall coordinate and work cooperatively with City staff and/or consultants hired to conduct outreach and education and provide technical assistance.

The Contractor shall, upon request of a Commercial Customer or a tenant business, and at the Contractor's expense, conduct a site visit within one week of the request to review existing services, determine recycling potential, and assess space constraints for additional Containers.

Any additional promotional, educational, and informational materials provided by the Contractor to Customers in connection with the Contract shall be designed, developed, printed, and delivered by the Contractor, at the Contractor's cost, and subject to the City's final written approval as to form, content, and method of delivery. The City shall review and approve all materials and a minimum of a two (2) weeks City review period shall be provided in all cases by the Contractor to allow sufficient time for City review and approval.

ATTACHMENT A

Section 8. **Contract Attachment C, On-route Contamination Monitoring, is deleted in its entirety and replaced with:**

Amended Attachment C, Base Requirements for Annual Education and Promotion Program for the City of Shoreline.

Section 9. **Contract Attachment D, Recyclables List, is revised as follows:**

Delete the following table row: "Plastic Bags and Films".

In witness whereof, the parties hereto have executed this Amendment to the May 25, 2016 Comprehensive Garbage, Recyclables and Compostables Contract as of the day and year first written above.

CITY OF SHORELINE	RECOLOGY CLEANSCAPES INC.
By_____	By_____
Its _____	Its _____

ATTEST:

By_____

APPROVED AS TO FORM:

By_____

ATTACHMENT A

Amended Attachment C: Base Requirements for Annual Education and Promotion Program for the City of Shoreline

The program below outlines minimum requirements that must be included in Recology's Annual Education and Promotion Plan. These requirements are in addition to the promotion and education activities that may be found in the current contract provisions. Recology will provide translation services on an as needed basis in conjunction with all promotion, education and outreach efforts. The goal of this program is to reduce the contamination in customers' Recyclables and Compostables Containers to a level of no greater than five percent (5%) by volume of collected Recyclables and no greater than three percent (3%) by volume of collected Compostables.

Promotion and Education Program Requirements: Ongoing

- Quarterly presentations to community groups, businesses and organizations, including the Shoreline Chamber of Commerce and Shoreline Neighborhood Associations (http://www.shorelinewa.gov/our-city/neighborhoods) regarding recycling and composting best practices, program materials and quality standards.
- Quarterly presentations to Shoreline residents and multifamily property owners/managers at The Recology Store, or on-site as requested for large commercial and multifamily properties, to raise awareness of recycling and composting best management practices.
- Quarterly outreach to school and community organization administrators or contacts to offer educational resources and summary information regarding specific site contamination issues.
- Monthly communications to raise awareness of recycling and composting best management practices and promote community presentations and events, such as the "Where Does It Go Workshops," via channels such as Facebook, Recology's Beyond Waste Bulletin, City newsletter and invoice messages.
- Monthly Load Level Monitoring of Recycle Contamination Levels.
    - Visual inspections of aggregate truck contents from City routes (i.e., a "pad inspection" where recycle material from a truck is emptied on a pad and an assessment of the contamination is made). These will occur once a month targeting different routes.
    - Monthly reporting regarding contamination reduction efforts and aggregate contamination data that is collected and maintained by Recology. (Recology will not provide information to City regarding the contents of any individual Customer's Container).
    - Based on pad inspection results, Recology will conduct targeted route-level outreach to customers on City routes found to have contamination in excess of acceptance standards. Outreach will take the form of route-level direct mailings to highlight common contaminants and provide instruction on proper disposal.

- Annual involvement and education presence at two additional City-sponsored events per year, as directed by the City, with the purpose of promoting good recycling practices.
- An annual schedule of scheduled on-site visits for commercial and multifamily customers will be offered, along with free educational resources (posters, signage, websites/links etc.) and staff trainings.
- Participation in regional and State programs – such as those listed below – to coordinate recycling market development and educational efforts.
    - Washington State Recycling Association
    - Washington Refuse & Recycling Association
    - Metropolitan Solid Waste Management Advisory Committee
    - Solid Waste Advisory Committee

ATTACHMENT A

Attachment I: Promotion and Education Program Requirements for July 1, 2019 – December 31, 2019

Enhanced Outreach: July 1, 2019 – December 31, 2019

- In addition to the requirements outlined in Attachment C, Recology will implement the following actions from July 1, 2019 – December 31, 2019:
    i. Send updated service guides to all customers. Service guides will include recycling program changes, an updated accepted materials list, and information about new contamination standards and compliance efforts.
    ii. Utilize social media and online platforms to communicate changes to accepted materials list, new contamination standards and recycling best practices with all Shoreline customers (such as via weekly social media posts, online images and graphics, etc.).
    iii. Host at least one presentation (each) to Shoreline Chamber of Commerce and Shoreline Neighborhood Councils to educate on new recycling program materials and quality standards.
    iv. Host at least four (4) presentations to Shoreline residents and multifamily property owners/managers at The Recology Store, or on-site as requested for large Commercial and Multifamily properties, to raise awareness of recycling and composting best management practices.
    v. Provide outreach to at least four (4) school and community organization administrators or contacts to offer educational resources and summary information regarding specific site contamination issues.
    vi. Attend at least two public events, such as Celebrate Shoreline and Shoreline Solarfest, or similar community events, to educate the public on new recycling program materials and quality standards, and to raise awareness of recycling and composting best management practices.

3.01.500 Solid Waste Rate Schedule
Effective 8/1/2019

Solid Waste Rate Schedule from CleanScapes				
Service Level	**Pounds Per Unit**	**Disposal Fee**	**Collection Fee**	**2019 Amended Fee Total**
A. MONTHLY				
1. One 32-gallon Garbage Cart	4.43	$ 1.35	~~$8.72~~ $10.07	~~$10.07~~ $11.42
B. WEEKLY RESIDENTIAL CURBSIDE SERVICE				
1. One 10-gallon Garbage Micro-Can	6.00	$ 1.83	~~$11.09~~ $12.44	~~$12.92~~ $14.27
2. One 20-gallon Garbage Cart	12.00	$ 3.66	~~$15.31~~ $16.66	~~$18.97~~ $20.32
3. One 32/35 -gallon Garbage Cart	19.20	$ 5.86	~~$19.20~~ $20.55	~~$25.06~~ $26.41
4. One 45-gallon Garbage Cart	27.00	$ 8.25	~~$26.44~~ $27.79	~~$34.69~~ $36.04
5. One 60/64-gallon Garbage Cart	38.40	$ 11.74	~~$28.03~~ $29.38	~~$39.77~~ $41.12
6. One 90/96-gallon Garbage Cart	57.60	$ 17.60	~~$32.19~~ $33.54	~~$49.79~~ $51.14
7. Additional 32 Gallon Cans (weekly svc)	-	$ 5.87	$ 7.77	$ 13.64
8. Extras (32 gallon equivalent)	-	$ 1.35	$ 2.95	$ 4.30
9. Miscellaneous Fees:				
a. Extra Yard Debris (32 gallon bag/bundle/can)				$ 3.11
b. 2nd and Additional 96-Gallon Yard Waste Cart				$ 6.22
c. Return Trip				$ 6.22
d. Roll-out Charge, per 25 ft, per cart, per time				$ 3.11
e. Drive-in Charge, per month				$ 6.22
f. Extended Vacation Hold (per week)				$ 1.00
g. Overweight/Oversize container (per p/u)				$ 3.11
h. Redelivery of one or more containers				$ 10.37
i. Cart Cleaning (per cart per cleaning)				$ 10.37
C. ON-CALL BULKY WASTE COLLECTION				
1. Non-CFC Containing Large Appliances ("white goods"), per item				$ 20.73
2. Refrigerators/Freezers/Air Conditioners per item				$ 31.10
3. Sofas, Chairs, per item	-	$ 7.63	$ 13.99	$ 21.62
4. Mattresses, Boxsprings, per item	-	$ 7.63	$ 13.99	$ 21.62
D. WEEKLY COMMERCIAL & MULTIFAMILY CAN AND CART				
1. One 20-gallon Garbage Cart	12.00	$ 3.66	~~$13.80~~ $14.77	~~$17.46~~ $18.43
2. One 32/35-gallon Garbage Cart	19.20	$ 5.86	~~$14.99~~ $16.65	~~$20.85~~ $22.51
3. One 45-gallon Garbage Cart	27.00	$ 8.25	~~$16.92~~ $19.16	~~$25.17~~ $27.41
4. One 60/64-gallon Garbage Cart	38.40	$ 11.74	~~$19.10~~ $22.22	~~$30.84~~ $33.96
5. One 90/96-gallon Garbage Cart	57.60	$ 17.60	~~$21.17~~ $25.55	~~$38.77~~ $43.15
6. Extras (32-gallon equivalent)	-	$ 1.35	$ 4.06	$ 5.41
7. Miscellaneous Fees:				
a. Weekly 64-gal Cart Yard Debris/Foodwaste service				$ 24.92
b. Return Trip				$ 7.89
c. Roll-out Charge, per addtn'l 25 ft, per cart, per p/u				$ 1.97
d. Redelivery of containers				$ 13.14
e. Cart Cleaning (per cart per cleaning)				$ 13.14

City of Shoreline
Fee Schedules

Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	2019 Amended Fee Total
E. WEEKLY COMMERCIAL DETACHABLE CONTAINER (COMPACTED)				
1. 1 Cubic Yard Container	394.80	$ 120.63	~~$82.57~~ $111.80	~~$203.20~~ $232.43
2. 1.5 Cubic Yard Container	789.60	$ 241.28	~~$162.50~~ $206.34	~~$403.78~~ $447.62
3. 2 Cubic Yard Container	1,184.40	$ 361.91	~~$242.43~~ $300.89	~~$604.34~~ $662.80
4. 3 Cubic Yard Container	1,579.20	$ 482.55	~~$322.36~~ $410.04	~~$804.91~~ $892.59
5. 4 Cubic Yard Container	1,974.00	$ 603.19	~~$402.30~~ $519.21	~~$1,005.49~~ $1,122.40
6. 6 Cubic Yard Container	2,961.00	$ 892.63	~~$440.56~~ $615.93	~~$1,333.19~~ $1,508.56
F. COMMERCIAL DETACHABLE CONTAINER (LOOSE)				
1. 1 Cubic Yard, 1 pickup/week	112.80	$ 34.47	~~$61.46~~ $71.20	~~$95.93~~ $105.67
2. 1 Cubic Yard, 2 pickups/week	225.60	$ 68.93	~~$116.37~~ $135.86	~~$185.30~~ $204.70
3. 1 Cubic Yard, 3 pickups/week	338.40	$ 103.40	~~$171.26~~ $200.49	~~$274.66~~ $303.89
4. 1 Cubic Yard, 4 pickups/week	451.20	$ 137.88	~~$226.16~~ $265.13	~~$364.04~~ $403.01
5. 1 Cubic Yard, 5 pickups/week	564.00	$ 172.34	~~$281.06~~ $329.77	~~$453.40~~ $502.11
6. 1.5 Cubic Yard, 1 pickup/week	169.20	$ 51.70	~~$ 85.63~~ $100.24	~~$137.33~~ $151.94
7. 1.5 Cubic Yard, 2 pickups/week	338.40	$ 103.40	~~164.71~~ $193.94	~~$268.11~~ $297.34
8. 1.5 Cubic Yard, 3 pickups/week	507.60	$ 155.11	~~$243.77~~ $287.61	~~$398.88~~ $442.72
9. 1.5 Cubic Yard, 4 pickups/week	676.80	$ 206.81	~~$322.84~~ $381.30	~~$529.65~~ $588.11
10. 1.5 Cubic Yard, 5 pickups/week	846.00	$ 258.51	~~$401.91~~ $474.98	~~$660.42~~ $733.49
11. 2 Cubic Yard, 1 pickups/week	225.60	$ 68.93	~~$110.25~~ $129.74	~~$179.18~~ $198.67
12. 2 Cubic Yard, 2 pickups/week	451.20	$ 137.88	~~$213.92~~ $252.89	~~$351.80~~ $390.77
13. 2 Cubic Yard, 3 pickups/week	676.80	$ 206.81	~~$317.60~~ $376.06	~~$524.41~~ $582.87
14. 2 Cubic Yard, 4 pickups/week	902.40	$ 275.74	~~$421.27~~ $499.21	~~$697.01~~ $774.95
15. 2 Cubic Yard, 5 pickups/week	1,128.00	$ 344.68	~~$524.94~~ $622.37	~~$869.62~~ $967.05
16. 3 Cubic Yard, 1 pickup/week	338.40	$ 103.40	~~$148.97~~ $178.20	~~$252.37~~ $281.60
17. 3 Cubic Yard, 2 pickups/week	676.80	$ 206.81	~~$291.38~~ $349.84	~~$498.19~~ $556.65
18. 3 Cubic Yard, 3 pickups/week	1,015.20	$ 310.21	~~$433.78~~ $521.46	~~$743.99~~ $831.67
19. 3 Cubic Yard, 4 pickups/week	1,353.60	$ 413.62	~~$576.19~~ $693.10	~~$989.81~~ $1,106.72
20. 3 Cubic Yard, 5 pickups/week	1,692.00	$ 517.02	~~$1,129.11~~ $1,275.25	~~$1,646.13~~ $1,792.27
21. 4 Cubic Yard, 1 pickup/week	451.20	$ 137.88	~~$187.70~~ $226.67	~~$325.58~~ $364.55
22. 4 Cubic Yard, 2 pickups/week	902.40	$ 275.74	~~$368.84~~ $446.78	~~$644.58~~ $722.52
23. 4 Cubic Yard, 3 pickups/week	1,353.60	$ 413.62	~~$549.99~~ $666.90	~~$963.61~~ $1,080.52
24. 4 Cubic Yard, 4 pickups/week	1,804.80	$ 551.49	~~$731.11~~ $886.99	~~$1,282.60~~ $1,438.48
25. 4 Cubic Yard, 5 pickups/week	2,256.00	$ 689.37	~~$912.25~~ $1,107.10	~~$1,601.62~~ $1,796.47
26. 6 Cubic Yard, 1 pickup/week	676.80	$ 206.81	~~$265.17~~ $323.63	~~$471.98~~ $530.44
27. 6 Cubic Yard, 2 pickups/week	1,353.60	$ 413.62	~~$523.77~~ $640.68	~~$937.39~~ $1,054.30
28. 6 Cubic Yard, 3 pickups/week	2,030.40	$ 620.42	~~$782.35~~ $957.72	~~$1,402.77~~ $1,578.14
29. 6 Cubic Yard, 4 pickups/week	2,707.20	$ 827.23	~~$1,040.95~~ $1,274.77	~~$1,868.18~~ $2,102.00
30. 6 Cubic Yard, 5 pickups/week	3,384.00	$ 1,034.04	~~$1,299.55~~ $1,591.83	~~$2,333.59~~ $2,625.87
31. 8 Cubic Yard, 1 pickup/week	902.40	$ 275.74	~~$333.89~~ $411.83	~~$609.63~~ $687.57
32. 8 Cubic Yard, 2 pickups/week	1,804.80	$ 551.49	~~$661.20~~ $817.08	~~$1,212.69~~ $1,368.57
33. 8 Cubic Yard, 3 pickups/week	2,707.20	$ 827.23	~~$988.53~~ $1,222.35	~~$1,815.76~~ $2,049.58
34. 8 Cubic Yard, 4 pickups/week	3,609.60	$ 1,102.98	~~$1,315.84~~ $1,627.60	~~$2,418.82~~ $2,730.58
35. 8 Cubic Yard, 5 pickups/week	4,512.00	$ 1,378.72	~~$1,643.16~~ $2,032.86	~~$3,021.88~~ $3,411.58

Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	2019 Amended Fee Total
36. Extra loose cubic yard in container, per pickup	-	$ 7.97	$ 6.12	$ 14.09
37. Extra loose cubic yard on ground, per pickup	-	$ 7.97	$ 19.26	$ 27.23
38. Detachable Container Miscellaneous Fees (per occurance):				
a. Stand-by Time (per minute)				$ 2.10
b. Container Cleaning (per yard of container size)				$ 13.14
c. Fee for Collection of Contaminated Recycling or Compost Containers				$ 25.00
d. Redelivery of Containers				$ 26.29
e. Return Trip				$ 13.14

Service Level (based on pick ups)	Daily Rent	Monthly Rent	Delivery Charge	Haul Charge
G. COMMERCIAL & MULTIFAMILY DROP-BOX COLLECTION				
1. Non-compacted 10 cubic yard Drop-box (6 boxes)	8.26	$ 82.67	$ 148.82	$ 210.12
2. Non-compacted 15 cubic yard Drop-box	8.26	$ 82.67	$ 148.82	$ 210.12
3. Non-compacted 20 cubic yard Drop-box (7 boxes)	8.26	$ 115.75	$ 148.82	$ 255.00
4. Non-compacted 25 cubic yard Drop-box	8.26	$ 132.28	$ 148.82	$ 277.37
5. Non-compacted 30 cubic yard Drop-box (11 boxes)	8.26	$ 148.82	$ 148.82	$ 299.77
6. Non-compacted 40 cubic yard Drop-box (2 boxes)	8.26	$ 165.35	$ 148.82	$ 344.58
7. Compacted 10 cubic yard Drop-box (2 boxes)			$ 165.35	$ 265.63
8. Compacted 20 cubic yard Drop-box (3 boxes)			$ 165.35	$ 288.03
9. Compacted 25 cubic yard Drop-box (2 boxes)			$ 165.35	$ 310.42
10. Compacted 30 cubic yard Drop-box (4 boxes)			$ 165.35	$ 332.85
11. Compacted 40 cubic yard Drop-box (1 box)			$ 165.35	$ 377.65
12. Drop-box Miscellaneous Fees				Per Event
a. Return Trip				$ 32.85
b. Stand-by Time (per minute)				$ 2.10
c. Container cleaning (per yard of container size)				$ 13.14
d. Drop-box directed to other facility (per one-way mile)				$ 3.94

Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Haul Charge
H. TEMPORARY COLLECTION HAULING				
1. 2 Yard detachable Container	270.00	$ 19.06	$ 136.46	$ 155.52
2. 4 Yard detachable container	540.00	$ 38.11	$ 138.84	$ 176.95
3. 6 Yard detachable container	810.00	$ 57.17	$ 141.24	$ 198.41
4. 8 Yard detachable container	1,080.00	$ 76.21	$ 143.62	$ 219.83
5. Non-compacted 10 cubic yard Drop-box				$ 193.65
6. Non-compacted 20 cubic yard Drop-box				$ 223.44
7. Non-compacted 30 cubic yard Drop-box				$ 253.24
8. Non-compacted 40 cubic yard Drop-box				$ 268.13

Service Level	Delivery Fee	Daily Rental	Monthly Rental
I. TEMPORARY COLLECTION CONTAINER RENTAL AND DELIVERY			
1. 2 Yard detachable container	$ 85.61	$ 4.89	$ 58.70
2. 4 Yard detachable container	$ 85.61	$ 4.89	$ 58.70
3. 6 Yard detachable container	$ 85.61	$ 4.89	$ 58.70
4. 8 Yard detachable container	$ 85.61	$ 4.89	$ 58.70

Service Level	Delivery Fee	Daily Rental	Monthly Rental
5. Non-compacted 10 cubic yard Drop-box	$ 110.08	$ 7.34	$ 88.06
6. Non-compacted 20 cubic yard Drop-box	$ 110.08	$ 7.34	$ 88.06
7. Non-compacted 30 cubic yard Drop-box	$ 110.08	$ 7.34	$ 88.06
8. Non-compacted 40 cubic yard Drop-box	$ 110.08	$ 7.34	$ 88.06

J. EVENT SERVICES	Per Day
1. Delivery, provision, collection of a set of 3 carts (G, R &C)	$ 32.85
K. HOURLY RATES	Per Hour
1. Rear/Side-load packer + driver	$ 164.27

2. Front-load packer + driver	$	164.27
3. Drop-box Truck + driver	$	164.27
4. Additional Labor (per person)	$	88.73

[Ord. 806 § 3 (Exh. A), 2017; Ord. 758 § 3 (Exh. A), 2016; Ord. 728 § 3 (Exh. A), 2015; Ord. 622 § 3 (Exh. A), 2011; Ord. 585 § 3(b) (Exh. B), 2010; Ord. 563 § 4 (Exh. B), 2009]