



PLEASE NOTE: This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA. Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting. Please email comments on any agenda items prior to the meeting to the City Clerk at soppedal@northbendwa.gov. Please provide comments by 5 p.m., Tuesday, November 15, 2022 so a copy can be provided to the City Council prior to the meeting.

Members of the public that wish to attend by teleconference may do so by using the Zoom Meetings platform. Instructions on how to access the meeting and provide public comment are available at the following link: [November 15, 2022 City Council Meeting Calendar Item](#). You will be required to have a registered Zoom account and display your full name to be admitted to the online meeting.

Zoom Meeting Information:

To Sign Up for a Zoom Account: <https://zoom.us/join>
Meeting ID: 844 5790 2721
Password: 874933
Call In Phone Number: 1-253-215-8782

CITY COUNCIL MEETING

November 15, 2022 – Agenda

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

7:00 P.M. – CALL TO ORDER, ROLL CALL, FLAG SALUTE

CONSENT AGENDA:

		Pg.#
1) Minutes	City Council Meeting of November 1, 2022	1
2) Payroll	November 4, 2022 – 28560 through 28565, in the amount of \$302,720.68	
3) Checks	November 15, 2022 – 73186 through 73236, in the amount of \$907,205.44	
4) AB22-133	Resolution – Authorizing Surplus of Certain City Property	Ms. Deming
5) AB22-134	Ordinance – Amending NBMC Chapter 9 RE Civil Protection Orders	Ms. Marshall
		11

CITIZEN'S COMMENTS: (Please restrict comments to 3 minutes)

ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:

6) Introduction New Snoqualmie/North Bend Police Officers

Captain Lynch



COMMISSION AND COMMITTEE REPORTS:

Planning Commission	Community & Economic Development – Councilmember Miller
Parks Commission	Finance & Administration – Councilmember Elwood
Economic Development Commission	Public Health & Safety – Councilmember Koellen
Regional Committees	Transportation & Public Works – Councilmember Loudenback
	Mayor Pro Tem – Councilmember Rosen
	Eastside Fire & Rescue Board – Councilmember Gothelf

MAIN AGENDA:

7) Presentation	Mayor's Message – 2023/2024 Biennial Budget	Mayor McFarland
8) AB22-135	Public Hearing Cont. , Ordinance – Adopting 2023 Property Tax Levy	Mr. Gould 19
9) AB22-136	Public Hearing , Ordinance – Adopting 2023-2024 Biennial Budget	Mr. Gould 29
10) AB22-137	Ordinance – Amending Taxes, Rates & Fees Schedule RE Solid Waste & Recycling Rates	Mr. Miller 39
11) AB22-138	Motion – Authorizing Solid Waste Collection Contract with Republic	Mr. Marcinko 49
12) AB22-139	Resolution – Authorizing Development Agreement with Telegraph Properties, LLC	Ms. Burrell 157
13) AB22-140	Motion – Authorizing Contract with Mountains to Sound Greenway Trust	Ms. Deming 183

MAYOR, COUNCIL & ADMINISTRATOR CONCERNS AND INITIATIVES: (Business and general information presented that may be deliberated upon by the Council. Formal action may be deferred until a subsequent meeting; immediate action may be taken upon a vote of a majority of all members of the Council.)

Executive Session – To Discuss Potential Litigation, pursuant to RCW 42.30.110(1)(i) & Property Acquisition, pursuant to RCW 42.30.110(1)(b)

ADJOURNMENT:

NORTH BEND CITY COUNCIL MINUTES

November 1, 2022

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

CALL TO ORDER, ROLL CALL:

Mayor McFarland called the regular meeting to order at 7:00 p.m.

Councilmembers Present: Gothelf, Joselyn, Koellen, Loudenback, Miller and Rosen. Councilmember Elwood was excused.

CONSENT AGENDA:

Minutes – Council Workstudy of September 27, 2022, City Council Meeting of October 4, 2022 & Special Council Workstudy of November 11, 2022

Payroll – October 5, 2022 – 28548 through 28553, in the amount of **\$305,708.46**

October 20, 2022 – 28554 through 28559, in the amount of **\$251,804.48**

Checks – October 18, 2022 – 73055 through 73114, in the amount of **\$1,435,733.58**

November 1, 2022 – 73115 through 73185, in the amount of **\$2,002,416.78**

AB22-123 – Resolution 2039 Accepting Train Depot Rehabilitation Project

AB22-124 – Resolution 2040 Accepting NE 6th Street AC Watermain Replacement Project

AB22-125 – Resolution 2041 Accepting Ribary Creek Maintenance Project

AB22-126 – Resolution 2042 Accepting SW 10th Street Culvert Maintenance Project

AB22-127 – Resolution 2043 Accepting NB Way Guardrail Replacement Project

AB22-128 – Motion Authorizing Contract with NB Downtown Foundation

AB22-129 – Resolution 2044 Accepting KC Grant for SF Levee Setback Project

AB22-130 – Resolution 2045 Accepting Federal RTCC Grant for SF Extension Project

Councilmember Gothelf **MOVED**, seconded by Councilmember Miller to approve the consent agenda as presented. The motion **PASSED** 6-0.

CITIZEN'S COMMENTS:

Debra Landers, 14615 438th Ave. SE, Representative of North Bend Art & Industry, provided an update on the organization's activities which included local murals, apprenticeship program at Two Rivers School, classes at local businesses, asphalt art and art at local elementary schools.

Michael Thomas, 1231 LaForest Drive SE, commented on technical difficulties at the October 4, 2022 City Council meeting during citizen comments and comments made regarding Sallal at that same meeting, Snoqualmie Valley Record's retraction related to tribal endorsement of a local water plan, and September 20, 2022 City Council meeting AB22-112 Ordinance Reallocation of Future Water Connections.

ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:

Presentation – Snoqualmie Valley Shelter Services

Audio: 9:46

Mayor McFarland presented Snoqualmie Valley Shelter Services Executive Director Jennifer Kirk and Board President Don Scaramasta with a Certificate of Appreciation in recognition of their ten years of outstanding service and support to unhoused and vulnerable community members in the Snoqualmie Valley. Ms. Kirk provided a presentation on the organization and mentioned the organization was changing its name to Reclaim.

INTRODUCTIONS:

AB22-131 – Public Hearing, Ordinance Adopting 2023 Property Tax Levy

Audio: 24:44

Finance Director Gould provided the staff report.

Mayor McFarland opened the Public Hearing on an Ordinance Adopting 2023 Property Tax Levy at 7:34 p.m.

The following individual(s) provided comment on the agenda item:

Kenneth Nero, 1161 Forster Blvd. SW

Michael Thomas, 1231 LaForest Drive SE

Mayor McFarland announced the Public Hearing would remain open until the November 15, 2022 City Council Meeting.

Councilmember Miller **MOVED**, seconded by Councilmember Joselyn to continue the Public Hearing on the Ordinance Setting the 2023 Property Tax Levy until the November 15, 2022 City Council meeting. The motion **PASSED** 6-0.

AB22-132 – Public Hearing Only, Proposed 2023-2024 Biennial Budget

Audio: 42:10

Finance Director Gould provided the staff report.

Mayor McFarland opened the Public Hearing on the Proposed 2023-2024 Biennial Budget at 7:50 p.m.

The following individual(s) provided comment on the agenda item:

Kenneth Nero, 1161 Forster Blvd. SW

Nela Cumming, 231 W Park St.

Michael Thomas, 1231 LaForest Drive SE

Mayor McFarland closed the Public Hearing at 7:56 p.m.

MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:

Councilmember Loudenback thanked the audience for their input on budget items and noted further clarity is provided as the budget progresses. Additionally, he thanked the North Bend Downtown Foundation and City staff for their help on last weekend's Trick-or-Treat Street event.

Councilmember Miller echoed Councilmember Loudenback's comments on Trick-or-Treat Street.

Councilmember Gothelf commented on Halloween activities in his neighborhood and reminded all to exercise caution when using or driving through City crosswalks.

Councilmember Koellen reminded all that flu shots and COVID-19 primary/booster shots were available at Snoqualmie Valley Hospital.

Councilmember Joselyn mentioned daylight savings time ends on November 6th and commented on recent rainfall and historically low levels in area rivers and lakes.

Mayor McFarland spoke regarding the following items:

- 4 Way Stop Traffic Modification at Main Ave. & 2nd Street
- Stage 2 of Water Conservation Ordinance
- Staff Efforts Regarding Grants
- Election Day – November 8th
- Special Budget Workstudy – Tuesday, November 8th @ 7 p.m.

ADJOURNMENT:

Councilmember Gothelf **MOVED** to adjourn, seconded by Councilmember Loudenback. The motion **PASSED** 6-0.

The meeting adjourned at 8:05 p.m.

ATTEST:

Rob McFarland, Mayor

Susie Oppedal, City Clerk



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-133
Resolution Declaring Certain Personal Property Surplus to the Needs of the City	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	
	City Attorney – Mike Kenyon/ Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Community & Econ Development – Rebecca Deming	X
Cost Impact: N/A	Finance – Richard Gould	
Fund Source: N/A	Public Works – Mark Rigos	
Timeline: Immediate		
Attachments: Resolution, Exhibit A		

SUMMARY STATEMENT:

The IT Department staff has compiled a list of surplus equipment from throughout City departments that has accumulated in the City Hall storage room. This personal property has little or no resale value as the majority of the items are obsolete or inoperable. These items need to be declared as surplus prior to disposal or sale.

North Bend Municipal Code §3.56.010 stipulates the Council must unanimously deem the property to be surplus and determine the terms and conditions of sale. This resolution formally declares the property surplus to the needs of the City and authorizes its disposal as required by City Code Chapter 3.56.

APPLICABLE BRAND GUIDELINES: N/A

COMMITTEE REVIEW AND RECOMMENDATION: The Finance and Administration Committee reviewed this item at their November 1, 2022 meeting and recommended approval on the Consent Agenda.

RECOMMENDED ACTION: MOTION to approve AB22-133, a resolution declaring certain personal property surplus to the needs of the City and authorizing its disposal.

RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
November 15, 2022		

RESOLUTION

A RESOLUTION OF THE CITY OF NORTH BEND, WASHINGTON, DECLARING CERTAIN PERSONAL PROPERTY SURPLUS TO THE NEEDS OF THE CITY

WHEREAS, North Bend Municipal Code Chapter 3.56 authorizes the City to dispose of personal property surplus to the needs of the City; and

WHEREAS, technology equipment and other equipment which has become surplus to the needs of the City has accumulated in various City departments; and

WHEREAS, all such property has been cataloged with all departments having the opportunity to review the listing; and

WHEREAS, NBMC 3.56.010 stipulates the Council must unanimously deem the property to be surplus and determine the terms and conditions of sale;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The listing of personal property is hereby declared surplus to the needs of the City of North Bend, in the form as attached hereto as Exhibit A.

Section 2. At least ten days before the date set for sale the City Administrator shall cause to be published in the City's official paper and posted on the City's official posting places, a notice of the sale in accordance with NBMC 3.56.020.

Section 3. The personal property described in Section 1 of this Resolution will be disposed of in a commercially reasonable manner, including, but not limited to by public auction or private negotiation and such property having no or de minimis value may be destroyed.

Section 4. Any proceeds of the sales authorized in Section 3 above, shall be paid into the City's General Fund in accordance with NBMC 3.56.030.

PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF NOVEMBER, 2022.

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Effective:

Posted:

Susie Oppedal, City Clerk

**City of North Bend
Resolution , Exhibit A**

Technology & Equipment Surplus

Date of Destruction

Please Note * Hard Drives have been removed from Commuters

Hardware Assets removed from Computers							Notes		
QTY	ITEM	MANUFACTURER	TYPE	Model #	Serial #	LOCATION	Tag	Notes	
1	Folding Machine	Pitney Bowes			1410124	City Hall	N/A	Destruction	
1	Postage Machine	ShearTech		LE-5950	884	City Hall	N/A	Destruction	
1	Monitor	Dell	REV A00		CN-OR2890-71618-84N-E22U	City Hall	N/A	Destruction	
1	Handheld Meter Reader	Neptune	Equinox	CE5320X	ES08452	City Hall	107	Destruction	
1	Charging Cradle		Dap Charger	EG5000	EG6530	City Hall	108	Destruction	
1	Handheld Meter Reader	Neptune	Equinox	CE5320X	ES03167	City Hall	109	Destruction	
1	Charging Cradle		Dap Charger	CE50000	EG10258	City Hall	110	Destruction	
1	Laptop	Dell	Latitude	E5530	H62SSY1	City Hall	174	Destruction	
1	Laptop	Dell	Latitude	E6510	G0TJQM1	City Hall	179	Destruction	
1	UPS:GIS	APC				City Hall	219	Destruction	
1	Monitor	Dell	AS501	P2217H	6783240117277	City Hall	290	Destruction	
1	Monitor	Dell		AS501	CN-OR9MJ3-74445-1BH-BUAL	City Hall	292	Destruction	
1	Monitor	Dell		AS501	CN-OR289D-71618-842-EDES	City Hall	295	Destruction	
1	Monitor	Dell		AS501	CN-0R289D-71618-84N-E1KU	City Hall	300	Destruction	
1	Monitor	Dell		AX510/2208WFPT	CN-0F532H-71618-874-602U-A01	City Hall	305	Destruction	
1	Monitor	Compaq		FP-7317	CNN314036B	City Hall	313	Destruction	
1	PC	Dell			4DFTRD2	City Hall	334	Destruction	
1	Monitor	Dell			MX-0HF730-46634-74A-1J6I	City Hall	473	Destruction	
1	Monitor	Asus	VS248	V\$248H-P	HCLMQS114995	City Hall	N/A	Destruction	
1	Printer	HP LaserJet		400 CIR M451DN	CNDFG04996	City Hall	245	Destruction	

Cell Phones - Valued at \$90 Each

QTY	ITEM	MANUFACTURER	TYPE	IMEI #	Phone #
Lot 2	Iphone	Apple	XR64GB	356444108943770	425-495-0251
Lot 3	Iphone	Apple	XR64GB	356444109851584	425-736-7697
Lot 4	Iphone	Apple	XR64GB	356444109600700	425-765-0531
Lot 5	Iphone	Apple	XR64GB	356444109409052	425-766-0678
Lot 6	Iphone	Apple	XR64GB	356444108745621	425-864-0231
Lot 7	Iphone	Apple	XR64GB	356444108699042	425-864-0233
Lot 8	Iphone	Apple	XR64GB	356444108912379	425-864-0234
Lot 9	Iphone	Apple	XR64GB	356444109231514	425-864-0235
Lot 10	Iphone	Apple	XR64GB	356444109178368	425-864-0236
Lot 11	Iphone	Apple	XR64GB	356444109647081	425-864-0237
Lot 12	Iphone	Apple	XR64GB	356444108748641	425-864-0238
Lot 13	Iphone	Apple	XR64GB	356444108979501	425-864-0239
Lot 14	Iphone	Apple	XR64GB	356444109376053	425-864-0241
Lot 15	Iphone	Apple	XR64GB	356444108740531	425-864-0242
Lot 16	Iphone	Apple	XR64GB	356444109156232	425-864-0244
Lot 17	Iphone	Apple	XR64GB	356444108339128	425-864-0357
Lot 18	Iphone	Apple	XR64GB	356444109276659	425-864-7261
Lot 19	Iphone	Apple	XR64GB	356444109382630	425-864-7710



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-134
An Ordinance Re-Naming NBMC 9.75 to be Titled “Civil Protection Orders and Domestic Violence Protection”; Renaming and Amending NBMC Section 9.75.010 Relating to Civil Protection Orders and Domestic Violence Protection and Amending NBMC Section 9.120.010 Harassment	Department/Committee/Individual	
Cost Impact: N/A	Mayor Rob McFarland	
Fund Source: N/A	City Administrator – David Miller	
Timeline: Immediate	City Attorney – Lisa Marshall	X
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance – Richard Gould	
	Public Works – Mark Rigos	

Attachments: Ordinance

SUMMARY STATEMENT:

Engrossed Second Substitute House Bill 1320 (“E2SHB 1320”) became law in 2021 and is intended to modernize, harmonize, and improve the efficacy of the State’s laws regarding civil protection orders.

There are a number of civil protection orders that allow a person to petition a court to seek protection from harmful or threatening behavior. Protection orders are available for persons subjected to domestic violence, sexual assault, stalking, harassment, and vulnerable adult abuse. A court may grant broad relief to protect the petitioner, including entering relief to restrain a person from having contact with or threatening another person or to exclude the person from certain locations or coming within a specified distance of certain locations, among many other forms of relief. In addition to protection orders that allow a court to protect a particular individual, there exists an extreme risk protection order (ERPO), which allows a court to prohibit a person from possessing, purchasing, accessing, or receiving a firearm if the person poses a significant risk of harm to self or others by having possession or access to firearms.

Each type of protection order is governed by its own chapter in the Revised Code of Washington (RCW) setting forth procedures and requirements with respect to the standards and process for filing petitions, court jurisdiction to hear protection order proceedings, conduct of hearings, relief that may be granted, mechanisms for modifying, renewing, or terminating orders, and penalties and enforcement provisions. There are many similarities in these procedures and requirements across the protection order chapters, but there are also numerous differences,

A new chapter of law is established to govern DVPOs, sexual assault protection orders (SAPOs), stalking protection orders (Stalking POs), anti-harassment protection orders (AHPOs), vulnerable adult protection orders (VAPOs), and ERPOs. Existing chapters and provisions of law governing protection orders are repealed. The new chapter consolidates and harmonizes protection order laws and generally provides uniformity in rules and procedures for all protection orders. Differences in provisions are retained in some circumstances and new provisions governing protection orders are established. The new chapter is organized into parts addressing the following issues: intent and definitions; jurisdiction and venue; filing; service; hearings; order duration, relief, and remedies; reissuance and renewal; violations and enforcement; modification and termination; and miscellaneous provisions.

Relevant definitions for all protection orders are consolidated into one new section. Revisions are made to the definitions of some terms, including: “abuse,” “domestic violence,” “family or household member,” “intimate partner,” and “unlawful harassment.” New definitions are provided for the following terms: “consent,” “firearm,” “full hearing,” “full protection order,” “possession,” and “temporary protection order.”

City Council Agenda Bill

The NBMC adopted all RCWs referred to above by reference and given the changes to the relevant RCWs regarding all types of protection orders, revisions to the NBMC is also necessary to ensure that all State protection order revisions are adopted accurately within the NBMC.

APPLICABLE BRAND GUIDELINES: Consistent delivery of quality basic services

COMMITTEE REVIEW AND RECOMMENDATION: This item was reviewed by the Public Health and Safety meeting on November 8, 2022 and was recommended for approval and placement on the Consent Agenda.

RECOMMENDED ACTION: **MOTION to approve AB22-134, an ordinance re-naming NBMC 9.75 to “Civil Protection Orders and Domestic Violence Protection” and re-naming and amending NBMC Section 9.75.010 relating to Civil Protection Orders and Domestic Violence Protection and amending NBMC Section 9.120.010 Harassment, as a first and final reading.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
November 15, 2022		

ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH BEND,
WASHINGTON, RE-NAMING NORTH BEND
MUNICIPAL CODE CHAPTER 9.75 TO BE TITLED
“CIVIL PROTECTION ORDERS AND DOMESTIC
VIOLENCE PROTECTION”; RE-NAMING AND
AMENDING NBMC SECTION 9.75.010 RELATING TO
CIVIL PROTECTION ORDERS AND DOMESTIC
VIOLENCE PROTECTION; AMENDING NBMC
SECTION 9.120.010 OF THE NORTH BEND MUNICIPAL
CODE RELATING TO HARASSMENT; PROVIDING
FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, in 2021, the Washington State Legislature enacted Engrossed Second Substitute House Bill 1320 (“E2SHB 1320”) with the purpose of modernizing, harmonizing, and improving the efficacy of the State’s laws concerning civil protection orders; and

WHEREAS, E2SHB 1320 established a new chapter in the Revised Code of Washington (“RCW”) to govern all types of protection orders, including domestic violence protection orders, sexual assault protection orders, stalking protection orders, antiharassment protection orders, vulnerable adult protection orders, and extreme risk protection orders; and

WHEREAS, North Bend Municipal Code (“NBMC”) Section 9.75.010, Domestic Violence Protection, adopts by reference sections of the RCW that criminalize domestic violence; and

WHEREAS, NBMC Section 9.120.010, Harassment, adopts by reference chapter 10.14 RCW, which criminalizes harassment; and

WHEREAS, the changes to State law adopted in E2SHB 1320 and effective July 1, 2022, include a new chapter and sections of the RCW which are not expressly identified in NBMC Section 9.75.010, and include the repeal of chapter 10.14 RCW which is expressly identified in NBMC Section 9.120.010; and

WHEREAS, to continue to effectively enforce civil protection orders, the City Council desires to amend NBMC Sections 9.75.010 and 9.120.010 to harmonize these sections with changes to State law effectuated by the enactment of E2SHB 1320; and

WHEREAS, the amendments to NBMC Sections 9.75.010 and 9.120.010 are necessary to protect the public health, safety, and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC Chapter 9.75, Renamed: North Bend Municipal Code Chapter 9.75 (Domestic Violence Protection) is hereby renamed “Civil Protection Orders and Domestic Violence Protection.” Except as provided in Section 2 of this Ordinance, NBMC Chapter 9.75 shall remain in full force and effect as currently adopted or hereinafter amended.

Section 2. NBMC Section 9.75.010, Re-Named and Amended: North Bend Municipal Code Section 9.75.010 (Domestic violence protection) is hereby re-named “Civil protection orders and domestic violence protection” and amended to read as follows:

9.75.010 Civil protection orders and Domestic violence protection.

The following ~~provisions sections~~ of the Revised Code of Washington (“RCW”) as ~~presently constituted~~ ~~they now exist or hereinafter may~~ hereafter be amended, renumbered, or recodified, whether in the same or different section, chapter, or title of the RCW, are ~~hereby~~ adopted by reference as a part of the North Bend Municipal Code, which is established in all respects as though such sections were set forth herein in full; and further provided, the inclusion of section captions is for convenience in identifying the subject of code sections only, and any error therein shall not affect the validity of the adoption by reference of the section so adopted:

RCW

<u>7.105.010</u>	<u>Definitions.</u>
<u>7.105.450</u>	<u>Enforcement and penalties – Other than antiharassment protection orders and extreme risk protection orders.</u>
<u>7.105.455</u>	<u>Enforcement and penalties – Antiharassment protection orders.</u>
<u>7.105.460</u>	<u>Enforcement and penalties – Extreme risk protection orders – False petitions.</u>
<u>7.105.465</u>	<u>Enforcement and penalties – Knowledge of order.</u>
<u>7.105.470</u>	<u>Enforcement – Prosecutor assistance.</u>
<u>7.105.550</u>	<u>Orders under this and other chapters – Enforcement and consolidation – Validity and enforcement of orders under prior chapters.</u>
<u>7.105.560</u>	<u>Title to real estate – Effect of chapter.</u>

7.105.565 Proceedings additional – Filing of criminal charges not required.

7.105.570 Other authority retained.

7.105.575 Liability.

9A.36.150 Interfering with the reporting of domestic violence.

10.99.020 Definitions.

10.99.030 Law enforcement officers – Training, powers, duties.

10.99.040 Restrictions upon and duties of court.

10.99.045 Appearances by defendant – Orders prohibiting contact.

10.99.050 Victim contact – Restriction, prohibition – Violation, penalties – Written order – Procedures.

10.99.055 Enforcement of orders against defendants.

~~26.09.300 Restraining orders Notice Refusal to comply Arrest Penalty Defense Peace officers, immunity.~~

~~26.50.010 Definitions.~~

~~26.50.020 Commencement of action Jurisdiction Venue.~~

~~26.50.030 Petition for an order for protection Availability of forms and instructional brochures Bond not required.~~

~~26.50.040 Application for leave to proceed in forma pauperis.~~

~~26.50.050 Hearing Service Time.~~

~~26.50.060 Relief.~~

~~26.50.070 Ex parte temporary order for protection.~~

~~26.50.080 Issuance of order Assistance of peace officer Designation of appropriate law enforcement agency.~~

~~26.50.090 Order Service.~~

~~26.50.100 Order Transmittal to law enforcement agency Record in law enforcement information system Enforceability.~~

~~26.50.110 Violation of order Penalties.~~

~~26.50.120 Violation of order Prosecuting attorney or attorney for municipality may be requested to assist Cost and attorney's fees.~~

~~26.50.130 Order Modification Transmittal.~~

~~26.50.140 Peace officers Immunity.~~

~~26.50.200 Title to real estate Effect.~~

~~26.50.210 Proceedings additional.~~

Section 3. NBMC Section 9.120.010, Amended: North Bend Municipal Code Section 9.120.010 (Harassment) is hereby amended to read as follows:

9.120.010 Harassment.

The following provisions sections of the Revised Code of Washington (“RCW”) as presently constituted they now exist or hereinafter may hereafter be amended, renumbered, or recodified, whether in the same or different section, chapter, or title of the Revised Code of Washington are hereby adopted by reference as a part of the North Bend Municipal Code, which is established in all respects as though such sections were set forth herein in full; and further provided, the inclusion of section captions is for convenience in identifying the subject of code sections only, and any error therein shall not affect the validity of the adoption by reference of the section so adopted:

RCW

- 9A.46.010 Legislative finding.
- 9A.46.020 Definition – Penalties.
- 9A.46.030 Place where committed.
- 9A.46.040 Court-ordered requirements upon person charged with crime – Violation.
- 9A.46.050 Arraignment – No-contact order.
- 9A.46.060 Crimes included in harassment.
- 9A.46.070 Enforcement of orders restricting contact.
- 9A.46.080 Order restricting contact – Violation.
- 9A.46.090 Nonliability of peace officer.
- 9A.46.100 “Convicted,” time when.
- 9A.46.110 Stalking.
- 9.61.230 Telephone calls to harass, intimidate, torment, embarrass.
- 9.61.240 Telephone calls to harass, intimidate, torment or embarrass – Permitting telephone to be used.
- 9.61.250 Telephone calls to harass, intimidate, torment or embarrass – Offense, where deemed committed.

Ch. 10.14 – Harassment. Chapter 10.14 RCW is adopted by reference in its entirety.

Section 4. Severability: Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity

of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect, and be in full force, five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF
NOVEMBER, 2022.**

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published:

Effective:

Susie Oppedal, City Clerk



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-135
Public Hearing Continued and Ordinance Setting the Property Tax Regular Levy for 2023	Department/Committee/Individual Mayor Rob McFarland City Administrator – David Miller City Attorney – Michael Kenyon/Lisa Marshall City Clerk – Susie Oppedal Community & Econ Development – Rebecca Deming Administrative Services – Lisa Escobar Finance – Richard Gould Public Works – Mark Rigos	
Cost Impact: N/A		X
Fund Source: General Fund		
Timeline: by 11/30/2022		
Attachments: Ordinances (Option 1, Option 2), Preliminary 2023 Property Tax Levy Limit Worksheet from King County, Public Hearing Notice		

SUMMARY STATEMENT:

Per RCW 84.52.020, the City of North Bend must adopt its property tax certification by November 30, 2022, and file it with King County for property taxes to be collected in 2023. The City is limited to a one percent (1%) increase in property tax revenue over the 2022 base property tax, plus an increase from new construction and utilities.

The 2022 preliminary assessed valuation is \$2,899,860,727 which is a 29.4% increase over the 2022 assessed valuation of \$2,241,184,674. Of this increase, new construction added \$107,823,122 of assessed value to the property tax rolls (3.7%) and the remaining 24.7% was increases to existing home values.

The two options for the 2023 property tax levy for Council consideration are as follows:

Option No. 1 – 0% Increase (0% increase over 2022's actual regular levy)

Levy a regular property tax equal to the 2022 actual levy of \$2,250,396 plus zero percent (0%) [\$0], new construction [\$108,771], annexations [\$0], re-levy for prior year refunds [\$4,727], for a total **2023 Regular Property Tax Levy of \$2,363,894**; or

Option No. 2 – 1% Increase (1% increase over 2022's actual regular levy)

Levy a regular property tax equal to the 2022 actual levy of \$2,250,396 plus one percent (1%) [\$22,504], new construction [\$108,771], annexations [\$0], re-levy for prior year refunds [\$4,727], for a total **2023 Regular Property Tax Levy of \$2,386,398**; or

The County's valuation numbers will continue to be refined and we will adjust before the final reading.

APPLICABLE BRAND GUIDELINES: Balanced Budget

COMMITTEE REVIEW AND RECOMMENDATION: This item was reviewed at the November 1st Finance & Administration Committee meeting.

RECOMMENDED ACTION: **MOTION to approve AB22-135, an ordinance adopting the 2023 Property Tax Levy, as set forth in (insert preferred Option Number), as a first and final reading.**

RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
November 1, 2022	Public Hearing Cont. to 11-15-22 City Council Meeting	6-0
November 15, 2022		

ORDINANCE – Option 1

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AUTHORIZING 2023 PROPERTY TAX LEVIES CONSISTING OF THE CITY'S REGULAR LEVY AND A VOTER-APPROVED EXCESS LEVY FOR UNLIMITED GENERAL OBLIGATION BONDS INTEREST AND REDEMPTION

WHEREAS, the City Council of the City of North Bend has properly given notice of the public hearing held on November 1, 2022 to consider the City's revenue sources for the 2023 budget, including the consideration of possible increases in property tax revenues; and

WHEREAS, the City of North Bend's actual levy amount from the previous year was \$2,251,984; and

WHEREAS, the King County Assessor has notified the City Council of the City of North Bend that the preliminary assessed valuation of property lying within the boundaries of said City for the assessment year 2022 is \$2,899,860,727; and

WHEREAS, the City Council of the City of North Bend, after hearing and duly considering all relevant testimony presented, has determined that the City of North Bend should adopt a regular property tax levy in the estimated amount of \$2,250,396 which includes a 0% increase [\$0] in regular property tax revenue over the 2022 actual regular property tax levy [\$2,251,984], plus revenue resulting from the addition of new construction & improvements to property [\$108,771], plus revenue resulting from the re-levy for prior year refunds [\$4,727], and

WHEREAS, voters approved an excess property tax levy for unlimited general obligation bonds, proceeds of which were used to pay for the construction of a new fire station; and

WHEREAS, the City is required to set and establish the property tax levy rate for voted excess levies for general obligation bond issues approved by the voters, including subsequent refunded bond issues, subject to the limitations imposed by law; and

WHEREAS, the City of North Bend needs a tax levied to raise revenue to provide for the interest and redemption of voter-approved unlimited general obligation bonds for the fiscal year of 2023 in the amount of \$179,240 which tax is applicable to all taxable property within the City of North Bend; and

WHEREAS, the below is a true and complete listing of property tax levies for the City of North Bend for tax year 2023 and they are within the maximums established by law:

Regular (Statutory) Levy	
Expense Fund	\$2,359,167
Refunds	<u>4,727</u>
Total Regular Levy	\$2,363,894
Excess (Voter Approved) Levy:	
G.O. Bonds Fund Levy	\$179,240
Total Property Taxes Requested:	\$2,543,134

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Regular Property Tax Levy. A regular property tax is hereby levied for year 2023 in the amount of \$2,250,396 which is a zero percent (0%) increase from the 2022 actual regular property tax levy. This increase is exclusive of additional revenue resulting from the addition of new construction and improvements to property, any increase in the value of state-assessed property, and any additional amounts resulting from annexations that have occurred, and refunds made.

Section 2. Voter-Approved Excess Property Tax Levy for Unlimited General Obligation Bonds. In addition to the above regular property tax levy for the ensuing fiscal year of 2023, a tax is hereby levied to raise revenue to provide for the interest and redemption of voter-approved unlimited general obligation bonds for the fiscal year of 2023 in the amount of \$179,240. This tax is applicable to all taxable property within the City of North Bend.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force on January 1, 2023.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF NOVEMBER, 2022.

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published:
Effective: January 1, 2023

Susie Oppedal, City Clerk

ORDINANCE – Option 2

**AN ORDINANCE OF THE CITY OF NORTH BEND,
WASHINGTON, AUTHORIZING 2023 PROPERTY TAX
LEVIES CONSISTING OF THE CITY'S REGULAR LEVY
INCLUDING THE 1% STATUTORY LIMIT AND A VOTER-
APPROVED EXCESS LEVY FOR UNLIMITED GENERAL
OBLIGATION BONDS INTEREST AND REDEMPTION**

WHEREAS, the City Council of the City of North Bend has properly given notice of the public hearing held on November 1, 2022, to consider the City's revenue sources for the 2023 budget, including the consideration of possible increases in property tax revenues; and

WHEREAS, the City of North Bend's actual levy amount from the previous year was \$2,251,984; and

WHEREAS, the King County Assessor has notified the City Council of the City of North Bend that the preliminary assessed valuation of property lying within the boundaries of said City for the assessment year 2022 is \$2,899,860,727; and

WHEREAS, the City Council of the City of North Bend, after hearing and duly considering all relevant testimony presented, has determined that the City of North Bend should adopt a regular property tax levy in the estimated amount of \$2,272,900, which includes a 1% increase [\$22,504] in regular property tax revenue over the 2022 actual regular property tax levy [\$2,251,984], plus revenue resulting from the addition of new construction & improvements to property [\$108,771], plus revenue resulting from the re-levy for prior year refunds [\$4,727]; and

WHEREAS, voters approved an excess property tax levy for unlimited general obligation bonds, proceeds of which were used to pay for the construction of a new fire station; and

WHEREAS, the City is required to set and establish the property tax levy rate for voted excess levies for general obligation bond issues approved by the voters, including subsequent refunded bond issues, subject to the limitations imposed by law; and

WHEREAS, the City of North Bend needs a tax levied to raise revenue to provide for the interest and redemption of voter-approved unlimited general obligation bonds for the fiscal year of 2023 in the amount of \$179,240 which tax is applicable to all taxable property within the City of North Bend; and

WHEREAS, the below is a true and complete listing of property tax levies for the City of North Bend for tax year 2023 and they are within the maximums established by law:

Regular (Statutory) Levy	
Expense Fund	\$2,381,671
Refunds	<u>4,727</u>
Total Regular Levy	\$2,386,398
Excess (Voter Approved) Levy:	
G.O. Bonds Fund Levy	\$179,240
Total Property Taxes Requested:	\$2,565,513

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Regular Property Tax Levy. A regular property tax is hereby levied for year 2023 in the amount of \$2,272,900 which represents a dollar increase of \$22,504 and percentage increase of one percent (1%) from the 2022 actual regular property tax levy. This increase is exclusive of additional revenue resulting from the addition of new construction and improvements to property, any increase in the value of state-assessed property, and any additional amounts resulting from annexations that have occurred, and refunds made.

Section 2. Voter-Approved Excess Property Tax Levy for Unlimited General Obligation Bonds. In addition to the above regular property tax levy for the ensuing fiscal year of 2023, a tax is hereby levied to raise revenue to provide for the interest and redemption of voter-approved unlimited general obligation bonds for the fiscal year of 2023 in the amount of \$179,240. This tax is applicable to all taxable property within the City of North Bend.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force on January 1, 2023.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF NOVEMBER, 2022.

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published:
Effective: January 1, 2023

Susie Oppedal, City Clerk

PRELIMINARY**LEVY LIMIT WORKSHEET – 2023 Tax Roll**TAXING DISTRICT: **City of North Bend**

The following determination of your regular levy limit for 2023 property taxes is provided by the King County Assessor pursuant to RCW 84.55.100.

Annexed to Library District (Note 1) Estimated Library rate: 0.23474

Using Limit Factor For District	Calculation of Limit Factor Levy	Using Implicit Price Deflator
2,250,396 1.0100	Levy basis for calculation: (2022 Limit Factor) (Note 2) x Limit Factor = Levy	2,250,396 1.0646
2,272,900	Local new construction	2,395,704
107,823,122 0	+ Increase in utility value (Note 3) = Total new construction	107,823,122 0
107,823,122 1.00879	x Last year's regular levy rate	107,823,122 1.00879
108,771	= New construction levy	108,771
2,381,671	Total Limit Factor Levy	2,504,475
Annexation Levy		
0	Omitted assessment levy (Note 4)	0
2,381,671	Total Limit Factor Levy + new lid lifts	2,504,475
2,899,860,727	÷ Regular levy assessed value less annexations	2,899,860,727
0.82131	= Annexation rate (cannot exceed statutory maximum rate)	0.86365
0	x Annexation assessed value	0
0	= Annexation Levy	0
Lid lifts, Refunds and Total		
0	+ First year lid lifts	0
2,381,671	+ Limit Factor Levy	2,504,475
2,381,671	= Total RCW 84.55 levy	2,504,475
4,727	+ Relevy for prior year refunds (Note 5)	4,727
2,386,398	= Total RCW 84.55 levy + refunds	2,509,202
Levy Correction: Year of Error (or-)		
2,386,398	ALLOWABLE LEVY (Note 6)	2,509,202
Increase Information (Note 7)		
0.82294	Levy rate based on allowable levy	0.86528
2,251,984	Last year's ACTUAL regular levy	2,251,984
20,916	Dollar increase over last year other than N/C – Annex	143,720
0.93%	Percent increase over last year other than N/C – Annex	6.38%
Calculation of statutory levy		
Regular levy assessed value (Note 8)		2,899,860,727
x Maximum statutory rate		3.36526
= Maximum statutory levy		9,758,785
+Omitted assessments levy		0
=Maximum statutory levy		9,758,785
Limit factor needed for statutory levy		Not usable

ALL YEARS SHOWN ON THIS FORM ARE THE YEARS IN WHICH THE TAX IS PAYABLE.
Please read carefully the notes on the reverse side.

Notes:

- 1) Rates for fire districts and the library district are estimated at the time this worksheet is produced. Fire district and library district rates affect the maximum allowable rate for cities annexed to them. These rates *will* change, mainly in response to the actual levy requests from the fire and library districts. Hence, affected cities may have a higher or lower allowable levy rate than is shown here when final levy rates are calculated.
- 2) This figure shows the maximum *allowable levy*, which may differ from any actual prior levy if a district has levied less than its maximum in prior years. The maximum allowable levy excludes any allowable refund levy if the maximum was based on a limit factor. The maximum allowable levy excludes omitted assessments if the maximum was determined by your district's statutory rate limit. If your district passed a limit factor ordinance in the year indicated, that limit factor would help determine the highest allowable levy. However, if the statutory rate limit was more restrictive than your stated limit factor, the statutory rate limit is controlling.
- 3) Any increase in value in state-assessed property is considered to be new construction value for purposes of calculating the respective limits. State-assessed property is property belonging to inter-county utility and transportation companies (telephone, railroad, airline companies and the like).
- 4) An omitted assessment is property value that should have been included on a prior year's roll but will be included on the tax roll for which this worksheet has been prepared. Omits are assessed and taxed at the rate in effect for the year omitted (RCW 84.40.080-085). Omitted assessments tax is deducted from the levy maximum before calculating the levy rate for current assessments and added back in as a current year's receivable.
- 5) Administrative refunds under RCW 84.69.020 were removed from the levy lid by the 1981 legislature.
- 6) A district is entitled to the lesser of the maximum levies determined by application of the limit under RCW 84.55 and the statutory rate limit. Levies may be subject to further proration if aggregate rate limits set in Article VII of the state constitution and in RCW 84.52.043 are exceeded.
- 7) This section is provided for your information, and to assist in preparing any Increase Ordinance that may be required by RCW 84.55.120. The increase information compares the allowable levy for the next tax year with your ACTUAL levy being collected this year. The actual levy excludes any refund levy and expired temporary lid lifts, if applicable. New construction, annexation and refund levies, as well as temporary lid lifts in their initial year, are subtracted from this year's *allowable* levy before the comparison is made.
- 8) ***Assessed valuations shown are subject to change from error corrections and appeal board decisions recorded between the date of this worksheet and final levy rate determination.***



**LEGAL NOTICE
CITY OF NORTH BEND
King County, Washington**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN the North Bend City Council will hold a public hearing to receive comments on setting the Property Tax Levy for 2023. The public hearing will take place during a Regular City Council Meeting on Tuesday, November 1, 2022, at 7:00 p.m. at City Hall, 920 SE Cedar Falls Way, North Bend, WA. For those that don't wish to attend the in-person meeting, a teleconference option will be available using Zoom Meetings, with detailed meeting access information to be provided on October 27, 2022 on the City website calendar item for the [November 1, 2022 City Council meeting](#).

Comments may be presented orally at the public hearing or submitted in writing to the City Clerk at 920 SE Cedar Falls Way, North Bend, WA, 98045, or by e-mail to: soppedal@northbendwa.gov up until 4:30 p.m., Monday, October 31, 2022.

Further information is available by contacting Finance Director Richard Gould at rgould@northbendwa.gov.

Posted: October 21, 2022

Published: October 21 and 28, 2022



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-136
Public Hearing and Ordinance Adopting the 2023-2024 Biennial Budget & 2023 Salary Schedule	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	
	City Attorney - Mike Kenyon/Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Community Development – Rebecca Deming	
Cost Impact: \$	Finance – Richard Gould	X
Fund Source: All	Public Works – Mark Rigos	
Timeline: Adoption 12/6/22, effective 1/1/23		
Attachments: Ordinance, Exhibits A-1, A-2 and B, Attachment A, Public Hearing Notice		
SUMMARY STATEMENT:		
<p>The proposed 2023-2024 Draft Preliminary Biennial Budget was delivered to the City Council on October 3, 2022. The City Council discussed the Preliminary 2023-2024 Budget at a Budget Workshop on October 11, 2022. The proposed 2023-2024 Preliminary Biennial Budget was delivered to the City Council on November 14, 2022. A Public Hearing was held on November 1, 2022 to receive comments regarding the proposed budget. The City Council deliberated on the proposed budget following the public hearing. Council comments and direction were incorporated into the 2023-2024 Preliminary Biennial Budget Ordinance. A second Public Hearing will be held on November 15, 2022, in conjunction with the first reading of the budget ordinance. Mayor McFarland will communicate highlights of the 2023-2024 Budget with his Mayor’s Budget Message prior to the public hearing. Adoption of the budget ordinance is scheduled for December 6, 2022.</p>		
<p>The 2023-2024 Biennial Budget is consistent with Council direction and complies with state law and City financial policies. The proposed expenditures are balanced against revenue & resource estimates for each of the City’s funds. The City’s 10% Reserve in the General Fund is also maintained.</p>		
<p>This budget includes property tax revenues with the 1% statutorily allowed increase over the 2022 levy amount. The budget will be amended as needed prior to adoption to reflect Council action taken regarding property tax levies.</p>		
<p>Decision Cards were discussed and agreed upon as part of this budget process at a Budget Workshop held on November 8th. The Finance Director then implemented the financial adjustments into the draft preliminary budget so it may be completed and brought before the Mayor and Council.</p>		
<p>Per RCW Chapter 36.40.250 pertaining to biennial budgets, the City Council will be able to review and modify the 2024 budgeted revenues and expenditures as part of a mid-biennium modification that will occur in the fall of 2023. Additionally, Council will continue to review and approve budget amendments throughout the biennium.</p>		
<p>When the final 2023-2024 Budget document is compiled, it will be published on the City’s website and a copy will be available at the front counter at City Hall.</p>		
APPLICABLE BRAND GUIDELINES: Balanced Budget		
COMMITTEE REVIEW AND RECOMMENDATION: This item was reviewed at the City Council workshop on October 4, 2022 and at the November 1, 2022 City Council meeting.		

City Council Agenda Bill

RECOMMENDED ACTION: Conduct Public Hearing and move Ordinance forward for 2nd reading and adoption at the December 6, 2022 City Council meeting.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
November 1, 2022	Public Hearing Only	
November 15, 2022	Public Hearing & 1 st Reading	
December 6, 2022		

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, ADOPTING THE 2023-2024 BIENNIAL BUDGET AND SALARY SCHEDULE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, State law requires the City to adopt a budget and provides procedures for the filing of estimates, a preliminary budget, public hearings, and final fixing of the budget; and

WHEREAS, the City Council of the City of North Bend adopted Ordinance 1528 on May 20, 2014 establishing a biennial budget process in accordance with the provisions of RCW Chapter 35A.34; and

WHEREAS, the City Council has stipulated that the biennial budget will be implemented as two one-year financial plans, that actual expenditures in the first year may not exceed the first year plan appropriations, that second year plan appropriations shall only be expended in the second year, and that any appropriation changes will require City Council approval; and

WHEREAS, a preliminary biennial budget for the fiscal years 2023-2024 has been prepared and filed, public hearings were held on November 1, 2022 and November 15, 2022 for the purposes of fixing the final budget, and the City Council has deliberated and has made adjustments and changes deemed necessary and proper; and

WHEREAS, the City Council now wishes to adopt by reference, in accordance with RCW 35A.34.120, a final budget which provides for totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined; and

WHEREAS, the City Council also desires to adopt a Salary Schedule for 2023;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON,
DO ORDAIN AS FOLLOWS:**

Section 1. 2023-2024 Biennial Budget Adoption. The Biennial Budget for the City of North Bend, a copy of which is on file with the City Clerk, is hereby adopted by the City Council as the revenue and expenditure authority for the 2023-2024 biennium. Set forth in summary form in Exhibits A-1 and A-2 (2023 and 2024 Annual Budgets) are the totals of the estimated revenues and expenditures for each separate fund and the aggregate totals for all such funds combined.

Section 2. 2023 Salary Schedule Adoption. The City Council hereby adopts the 2023 Salary Schedule as shown in Exhibit B. 2024 Salary Schedules will be adopted as part of the Mid-Biennium Modification.

Section 3. Submittal. The City Clerk and/or Finance Director are directed to transmit a certified copy of this ordinance and the final 2023-2024 Biennial Budget Document to the Division of Municipal Corporations of the Office of the State Auditor and to the Association of Washington Cities.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force on January 1, 2023.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A
REGULAR MEETING THEREOF, THIS 6TH DAY OF DECEMBER, 2022.**

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published:
Effective: January 1, 2023

Susie Oppedal, City Clerk

EXHIBIT A-1
2023 ANNUAL BUDGET

Fund	Fund Name	Beginning Fund Balance	Revenues	Expenditures	Ending Fund Balance
001	General Fund	\$ 4,800,379	\$ 11,030,124	\$ 10,984,052	\$ 4,846,452
101	Street Operations Fund	\$ -	919,207	911,500	\$ 7,706
102	Capital Streets Fund	\$ -	431,483	419,915	\$ 11,568
103	Streets Overlay Fund	\$ 799,979	535,120	897,779	\$ 437,320
106	Impact Fees & Mitigation Fund	\$ 11,796,044	4,191,030	3,148,713	\$ 12,838,361
107	Hotel/Motel Tax Fund	\$ 55,861	15,000	-	\$ 70,861
108	Economic Development Fund	\$ -	255,400	246,571	\$ 8,829
116	Park Improvement Fund	\$ 427,135	162,403	325,000	\$ 264,539
117	Park Maintenance Reserve Fund	\$ 40,290	10,680	-	\$ 50,970
125	Development Projects Fund	\$ 651,195	500,000	248,560	\$ 902,635
130	ARPA Fiscal Recovery	\$ 1,759,057	-	846,000	\$ 913,057
190	Transportation Benefit District Fund	\$ 2,205,234	654,151	275,000	\$ 2,584,385
216	2011 Fire Station Bond Fund	\$ -	191,926	149,660	\$ 42,266
217	2012 LTGO (TBD) Bond Fund	\$ 2,569	-	-	\$ 2,569
218	2015 LTGO Bond Fund	\$ (0)	200,000	191,769	\$ 8,231
220	2018 LTGO Bond Fund	\$ -	246,000	245,350	\$ 650
310	Municipal Projects Fund	\$ 16,519	8,396,285	6,575,000	\$ 1,837,804
320	Capital Improvements (REET) Fund	\$ 4,292,799	1,857,360	621,000	\$ 5,529,159
401	Water Utility Fund	\$ 3,400,600	3,476,096	4,772,783	\$ 2,103,913
402	Sewer Utility Fund	\$ 25,353,548	5,529,288	15,478,116	\$ 15,404,720
404	Storm Drainage Utility Fund	\$ 2,591,354	1,054,357	1,589,929	\$ 2,055,783
404	Flood Operations Fund	\$ 475,701	203,056	349,999	\$ 328,758
405	Solid Waste & Recycling Fund	\$ 537,422	113,352	109,496	\$ 541,278
451	ULID #6 Bond Redemption Fund	\$ 1,526,540	871,923	923,552	\$ 1,474,912
452	ULID #6 Bond Reserve Fund	\$ -	-	-	\$ -
501	Equipment Operating Fund	\$ 50,000	378,042	329,134	\$ 98,908
501	Technology Operating Fund	\$ 50,000	426,710	449,374	\$ 27,336
502	Equipment Reserve Fund	\$ 1,600,132	110,540	610,000	\$ 1,100,672
502	Technology Reserve Fund	\$ 252,395	44,400	33,180	\$ 263,615
GRAND TOTAL:		\$ 62,684,754	\$ 41,803,933	\$ 50,731,432	\$ 53,757,255

EXHIBIT A-2
2024 ANNUAL BUDGET

Fund	Fund Name	Beginning Fund Balance	Revenues	Expenditures	Ending Fund Balance
001	General Fund	\$ 4,846,452	\$ 11,252,634	\$ 11,427,540	\$ 4,671,545
101	Street Operations Fund	\$ 7,706	951,725	957,075	\$ 2,356
102	Capital Streets Fund	\$ 11,568	365,793	226,589	\$ 150,772
103	Streets Overlay Fund	\$ 437,320	548,775	918,918	\$ 67,177
106	Impact Fees & Mitigation Fund	\$ 12,838,361	4,358,671	3,043,649	\$ 14,153,384
107	Hotel/Motel Tax Fund	\$ 70,861	15,600	-	\$ 86,461
108	Economic Development Fund	\$ 8,829	268,066	258,421	\$ 18,474
116	Park Improvement Fund	\$ 264,539	168,900	-	\$ 433,438
117	Park Maintenance Reserve Fund	\$ 50,970	11,107	-	\$ 62,077
125	Development Projects Fund	\$ 902,635	520,000	258,502	\$ 1,164,132
130	ARPA Fiscal Recovery	\$ 913,057	-	700,000	\$ 213,057
190	Transportation Benefit District Fund	\$ 2,584,385	680,317	275,000	\$ 2,989,702
216	2011 Fire Station Bond Fund	\$ 42,266	199,603	149,660	\$ 92,210
217	2012 LTGO (TBD) Bond Fund	\$ 2,569	-	-	\$ 2,569
218	2015 LTGO Bond Fund	\$ 8,231	202,500	191,769	\$ 18,962
219	2016 LTGO (LOC) Bond Fund	\$ -	-	-	\$ -
220	2018 LTGO Bond Fund	\$ 650	246,000	245,350	\$ 1,300
310	Municipal Projects Fund	\$ 1,837,804	11,169,094	10,275,000	\$ 2,731,898
320	Capital Improvements (REET) Fund	\$ 5,529,159	1,567,654	546,000	\$ 6,550,814
401	Water Utility Fund	\$ 2,103,913	4,270,803	5,141,436	\$ 1,233,280
402	Sewer Utility Fund	\$ 15,404,720	5,807,999	6,898,929	\$ 14,313,790
404	Storm Drainage Utility Fund	\$ 2,055,783	3,059,719	3,489,863	\$ 1,625,639
404	Flood Operations Fund	\$ 328,758	214,141	366,264	\$ 176,634
405	Solid Waste & Recycling Fund	\$ 541,278	117,886	114,895	\$ 544,269
451	ULID #6 Bond Redemption Fund	\$ 1,474,912	906,800	969,730	\$ 1,411,982
452	ULID #6 Bond Reserve Fund	\$ -	-	-	\$ -
501	Equipment Operating Fund	\$ 98,908	396,944	345,340	\$ 150,512
501	Technology Operating Fund	\$ 27,336	448,046	470,842	\$ 4,540
502	Equipment Reserve Fund	\$ 1,100,672	116,031	-	\$ 1,216,703
502	Technology Reserve Fund	\$ 263,615	46,611	34,839	\$ 275,387
GRAND TOTAL:		\$ 53,757,255	\$ 47,911,420	\$ 47,305,612	\$ 54,363,063

Council Packet November 15, 2022

EXHIBIT B

2023 Salary Ranges

<u>Position Title</u>	<u>Monthly Salary Range</u>		
	<u>Low</u>	<u>High</u>	<u>FTEs</u>
Mayor and Council			
Mayor	4,000	N/A	1 Elected
Council Member	550	N/A	7 Elected
Management (Exempt)			
City Administrator	14,116	17,501	1.00
Deputy City Administrator	12,987	16,081	1.00
City Attorney	12,647	15,752	0.00
Community & Economic Development Director	11,858	15,244	1.00
Finance Director	11,858	15,244	1.00
Public Works Director	11,858	15,244	1.00
Administrative Services Director	10,336	14,116	1.00
Deputy Public Works Director	10,336	14,116	1.00
IT Manager	10,336	14,116	1.00
City Engineer	10,271	13,154	1.00
Capital Projects/Grants Manager	9,661	12,798	1.00
PW Operations Manager	9,007	10,442	0.00
Building Official	8,807	11,286	1.00
Deputy Finance Director	8,807	11,286	0.00
Development Review Manager	8,370	11,124	0.00
PW Project Manager	8,370	11,124	1.00
SCADA Supervisor	8,273	10,606	1.00
Wastewater Treatment Plant Manager	8,273	10,606	1.00
Water Operations Manager	8,273	10,606	1.00
Economic Development Manager	8,051	10,114	1.00
City Clerk	7,976	10,071	1.00
Accounting Operations Manager	7,733	9,823	1.00
Communications Manager/PIO	7,123	9,364	1.00
Senior Financial Analyst	7,112	9,034	0.00
HR Assistant/Emergency Management Coordinator	6,286	8,176	1.00
Public Works Bargaining Unit			
Senior Lead Technician	7,403	9,007	1.00
Lead Parks Technician	6,627	8,062	0.00
Lead Streets Technician	6,627	8,062	1.00
Lead Water System Operator	6,627	8,062	1.00
Lead WWTP Operator	6,627	8,062	1.00
Wastewater Treatment Plant Operator II	6,274	7,633	0.00
Water System Operator	6,168	7,504	3.00
Mechanic	6,016	7,319	1.00
Wastewater Treatment Plant Operator I	5,835	7,099	4.00
Maintenance Worker	5,624	6,842	6.00
Wastewater Treatment Plant Operator-in-Training	5,424	6,599	0.00
Maintenance Worker - Entry	5,435		0.00
Maintenance (Seasonal)	\$15.65/hr	\$19.44/hr	
Professional, Technical, Clerical Bargaining Unit			
Principal Planner	8,230	10,012	1.00
Senior Planner	7,873	9,579	2.00
Senior Long Range Planner/2-year term	7,873	9,579	0.00
Senior GIS Analyst	7,130	9,743	1.00
PW Contract Specialist / Office Coordinator	6,800	7,800	1.00
GIS Analyst	6,638	8,340	0.00
Building Inspector	6,734	8,193	1.00
Public Works Infrastructure Inspector	6,734	8,193	1.00
Associate Planner	6,663	8,106	0.00
Long Range Planner/2-year term	6,663	8,106	0.00
Mapping CAD Technician	6,501	7,909	0.00
Staff Accountant	6,397	7,784	2.00
Deputy City Clerk	6,396	7,781	1.00
Records Coordinator	6,231	7,581	0.00
Special Events & Visitor Information Coordinator	6,130	7,458	0.00
Payroll Officer	6,079	7,397	0.00
Office Coordinator / Permit Technician	5,769	7,020	1.00
Permit Tech / Planning Assistant	5,769	7,020	1.00
Public Works Office Coordinator	5,769	7,020	0.00
Accounting Assistant II	5,662	6,889	0.00
Business License & Tax Coordinator	5,662	6,889	0.00
Utilities Coordinator	5,662	6,889	1.00
Administrative Assistant	4,953	6,025	0.00
Accounting Assistant I	4,866	5,921	1.00
Total FTEs			52.00

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ATTACHMENT - A

2023 Human Services/Community Organization Requests						
	2020 Funded	2021 Funded	2022 Funded	2023 Request	Recommendation	Council Approved
Boxley Music Fund (Jazz Clubs NW)	\$ 3,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500
Eastside Baby Corner	750	1,500	2,000	2,500	2,500	2,500
Empower Youth (SVCN)	3,000	15,000	15,000	25,000	25,000	20,000
Encompass	13,000	20,000	20,000	30,000	30,000	25,000
Friends of the Trail	6,000	6,000	6,000	6,000	6,500	6,500
Friends of Youth	3,000	3,000	5,000	10,000	10,000	10,000
Mamma's Hands			15,000	15,000	15,000	15,000
Mt Si Senior Center	37,500	37,500	37,500	50,000	50,000	50,000
Si View Community Foundation				5,000		5,000
Snoqualmie Valley Food Bank	22,000	30,000	35,000	40,000	40,000	40,000
Snoqualmie Valley Little League				25,000		
Snoqualmie Valley Shelter Services	4,500	4,500	20,000	20,000	20,000	20,000
Snoqualmie Valley Youth Activity Center				20,000		
Supportive Community For All				10,000		
Trail Youth	3,500	3,500	5,000	10,000	6,000	7,500
Total Requested/Recommended	\$ 96,750	\$ 128,500	\$ 168,000	\$ 276,000	\$ 212,500	\$ 209,000
Human Services Reserve Fund					\$ 50,000.00	
Total of Funding	\$ 96,750	\$ 128,500	\$ 168,000	\$ 276,000	\$ 262,500	\$ 209,000
Community Organization Funding in Base Budget						
Meadowbrook Farm	10,000	10,000	25,000	\$ 30,000	\$25,000	\$25,000
Sno Valley Historical Museum	3,000	5,000	5,000	20,000	\$15,000	\$15,000
Total of Funding	\$ 13,000	\$ 15,000	\$ 30,000	\$50,000	\$40,000	\$ 40,000
Grand Total	\$109,750	\$143,500	\$198,000	\$326,000	\$302,500	\$249,000
New Request						



**LEGAL NOTICE
CITY OF NORTH BEND
King County, Washington**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN the North Bend City Council will hold a public hearing to receive comments on the Proposed 2023-2024 Biennial Budget. The public hearing will take place during a Regular City Council Meeting on Tuesday, November 1, 2022, at 7:00 p.m. at City Hall, 920 SE Cedar Falls Way, North Bend, WA. For those that don't wish to attend the in-person meeting, a teleconference option will be available using Zoom Meetings, with detailed meeting access information to be provided on October 27, 2022 on the City website calendar item for the [November 1, 2022 City Council meeting](#).

Comments may be presented orally at the public hearing or submitted in writing to the City Clerk at 920 SE Cedar Falls Way, North Bend, WA, 98045, or by e-mail to: soppedal@northbendwa.gov up until 4:30 p.m., Monday, October 31, 2022.

Further information is available by contacting Finance Director Richard Gould at rgould@northbendwa.gov.

Posted: October 21, 2022

Published: October 21 and 28, 2022



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-137
Ordinance Increasing the Solid Waste & Recycling Rates and Amending the Taxes, Rates & Fees Schedule	Department/Committee/Individual	
Cost Impact: N/A	Mayor Rob McFarland	
Fund Source: N/A	City Administrator – David Miller	X
Timeline: January 1, 2023	City Attorney – Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Community & Econ Development – Rebecca Deming	
	Finance – Richard Gould	
	Public Works – Mark Rigos	
Attachments: Ordinance, Notice of Rate Increase		
SUMMARY STATEMENT:		
On March 20, 2012, the City Council passed Resolution 1581, entering into a contract with Republic Services for solid waste and recycling collection services effective June 1, 2012 to March 31, 2020. Council passed Resolution 1903 on August 20, 2019, exercising its option to extend the contract term for two years until March 31, 2022, and passed Resolution 1997 on October 19, 2021, extending the contract for the final two year option until March 31, 2024.		
Under Section 3.3.1 of the contract, the rate charged for services shall adjust annually on January 1 st to reflect any change in the Consumer Price Index for the Seattle-Tacoma-Bellevue metropolitan area (CPI) published from the previous June.		
The provider sent notification to the City in September 2022 that they would be raising rates to reflect a 9.5430% increase in the CPI and an increase in the landfill tipping fees charged by King County. King County raised their tip fee effective January 1, 2023 from \$154.02 per ton to \$168.68 per ton. Additionally, the provider provided notice to ratepayers of the proposed increase in their November billing statement. Notice of the rate increase was also published in The Snoqualmie Valley Record on November 4 and 11, 2022.		
Changes in the Solid Waste and Recycling Rates will be reflected in the stand-alone Taxes, Rates and Fees Schedule upon passage of the ordinance, and will be added as Exhibit A to the ordinance. The current Taxes Rates & Fees Schedule is available on the homepage of the City website at http://northbendwa.gov .		
APPLICABLE BRAND GUIDELINES: Consistent delivery of quality basic services.		
COMMITTEE REVIEW AND RECOMMENDATION: This item was reviewed by the Finance & Administration Committee on November 1, 2022 with the recommendation for approval and placement on the Main Agena.		
RECOMMENDED ACTION: MOTION to approve AB22-137, an ordinance increasing the Solid Waste & Recycling Rates and amending the Taxes, Rates & Fees Schedule, as a first and final reading.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
November 15, 2022		

ORDINANCE

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, INCREASING THE SOLID WASTE AND RECYCLING COLLECTION RATES AND AMENDING THE TAXES, RATES AND FEES SCHEDULE; PROVID- ING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on March 20, 2012 the City Council passed Resolution 1581, entering into a contract with Republic Services for solid waste and recycling collection services, effective June 1, 2012 to March 31, 2020; and

WHEREAS, on August 20, 2019 the City Council passed Resolution 1903, exercising its option to extend the contract with Republic Services for an additional two years until March 31, 2022; and

WHEREAS, on October 19, 2021 the City Council passed Resolution 1997, exercising its option to extend the contract with Republic Services for a final two years until March 31, 2024; and

WHEREAS, on November 16, 2021, the City Council passed Ordinance 1762 Amending Taxes, Rates and Fees Schedule Regarding Solid Waste and Recycling Rates pursuant to the contract with Republic Services; and

WHEREAS, under Section 3.3.1 of the contract, the rate charged for services shall adjust annually on January 1st to reflect any change in the Consumer Price Index for the Seattle-Tacoma-Bellevue metropolitan area (CPI) published from the previous June; and

WHEREAS, the City received notification by the provider in September 2022 of a rate increase in accordance with the CPI (Rate Increase) and an increase to the King County tipping fees and now desires to amend the Taxes, Rates & Fees Schedule to reflect the changes accordingly; and

WHEREAS, the City published notice of the Rate Increase in the Snoqualmie Valley Record on November 4 and 11, 2022;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Solid Waste Collection Rates: The Garbage Collection and Curbside Recycling Rates for services detailed in North Bend Municipal Code Section 8.12.010 are hereby amended as follows effective January 1, 2023:

A. Monthly Rate - Single Family Residential.

Weekly Pickup	2022 Rate	2023 Rate
1 20-gallon Garbage Cart	\$18.79	\$20.59
1 32/35-gallon Garbage Cart	\$24.23	\$26.56
1 45-gallon Garbage Cart	\$31.49	\$34.51
1 60/64-gallon Garbage Cart	\$39.56	\$43.35
1 96-gallon Garbage Cart	\$52.11	\$57.10
Additional 32 Gallon Cans (weekly svc)	\$10.54	\$11.56
Garbage Extras (32-gallon equivalent)	\$11.31	\$12.39
Miscellaneous Fees:		
EoW Yard Debris Service	\$10.32	\$11.30
96 Gallon Extra Yard Waste Cart Rental	\$2.00	\$2.19
Wildlife Resistant Container, per month	\$3.96	\$4.34
Return Trip	\$8.02	\$8.79
Carry-out Charge, per 25 ft, per month	\$5.36	\$5.87
Drive-in Charge, per month	\$8.02	\$8.79
Overweight/Oversize container (per p/u)	\$4.02	\$4.40
Redelivery of containers	\$13.37	\$14.65
Cart Cleaning (per cart per event)	\$13.37	\$14.65
Sunken Can Surcharge per month	\$10.04	\$10.97
On-Call Bulky Waste Collection		
White Goods, except refrigerators	\$121.34	\$132.94
Refrigerators/Freezers	\$126.82	\$138.94
Sofas, Chairs	\$130.73	\$143.22
Mattresses	\$118.89	\$130.25
Monthly Only		
One 32/35-gallon Garbage Cart	\$12.83	\$14.07

Single-family residential service includes one weekly garbage pickup, one weekly curbside recycling pickup and curbside compostable collection every other week, all utilizing containers provided by the contractor. All residential rates include a monthly hazardous waste fee computed by the King County Health Department.

B. Monthly Rate – Commercial and Multiple-Family.

Weekly Commercial Can and Cart	2022 Rate	2023 Rate
1 20-gallon Garbage Cart	\$23.56	\$25.81
1 32/35-gallon Garbage Cart	\$30.14	\$33.03

1 45-gallon Garbage Cart	\$37.39	\$40.97
1 60/64-gallon Garbage Cart	\$43.77	\$47.96
1 96-gallon Garbage Cart	\$56.72	\$62.16
Extras (32-gallon equivalent)	\$11.44	\$12.53
Miscellaneous Fees:		
Weekly Yard Debris/Foodwaste service	\$13.71	\$15.02
64/96 Gallon Yard Extra Waste Cart Rental	\$2.00	\$2.19
Return Trip	\$8.02	\$8.79
Carry-out Charge, per 25 ft, per p/u	\$2.00	\$2.19
Drive-in Charge, per month (per p/u)	\$8.02	\$8.79
Gate and/or unlock fee (per p/u)	\$2.00	\$2.19
Container roll-out, >10 feet (per p/u)	\$4.02	\$4.40
Overweight/Oversize container (per p/u)	\$4.02	\$4.40
Redelivery of container	\$13.37	\$14.65
Cart Cleaning (per cart per event)	\$13.37	\$14.65
Weekly Commercial Detachable Container (compacted)		
1 Cubic Yard Container	\$321.52	\$352.39
1.5 Cubic Yard Container	\$405.73	\$444.72
2 Cubic Yard Container	\$503.52	\$551.93
3 Cubic Yard Container	\$696.65	\$763.68
4 Cubic Yard Container	\$973.19	\$1,066.79
6 Cubic Yard Container	\$1,408.71	\$1,544.23
Commercial Detachable Container (loose)		
1 Cubic Yard, 1 pickup/week	\$126.52	\$138.65
1 Cubic Yard, 2 pickups/week	\$253.09	\$277.34
1 Cubic Yard, 3 pickups/week	\$379.63	\$416.01
1 Cubic Yard, 4 pickups/week	\$506.18	\$554.69
1 Cubic Yard, 5 pickups/week	\$632.70	\$693.34
1.5 Cubic Yard, 1 pickup/week	\$194.22	\$212.83
1.5 Cubic Yard, 2 pickups/week	\$388.43	\$425.65
1.5 Cubic Yard, 3 pickups/week	\$582.63	\$638.46
1.5 Cubic Yard, 4 pickups/week	\$776.85	\$851.30
1.5 Cubic Yard, 5 pickups/week	\$971.05	\$1,064.11
2 Cubic Yard, 1 pickups/week	\$227.46	\$249.27
2 Cubic Yard, 2 pickups/week	\$454.94	\$498.56
2 Cubic Yard, 3 pickups/week	\$682.37	\$747.80
2 Cubic Yard, 4 pickups/week	\$909.82	\$997.06
2 Cubic Yard, 5 pickups/week	\$1,137.30	\$1,246.35
3 Cubic Yard, 1 pickup/week	\$330.24	\$361.91
3 Cubic Yard, 2 pickups/week	\$660.47	\$723.81

3 Cubic Yard, 3 pickups/week	\$990.73	\$1,085.74
3 Cubic Yard, 4 pickups/week	\$1,320.94	\$1,447.62
3 Cubic Yard, 5 pickups/week	\$1,651.19	\$1,809.54
4 Cubic Yard, 1 pickup/week	\$411.05	\$450.48
4 Cubic Yard, 2 pickups/week	\$822.13	\$901.00
4 Cubic Yard, 3 pickups/week	\$1,233.17	\$1,351.47
4 Cubic Yard, 4 pickups/week	\$1,644.24	\$1,801.98
4 Cubic Yard, 5 pickups/week	\$2,055.31	\$2,252.48
6 Cubic Yard, 1 pickup/week	\$582.51	\$638.41
6 Cubic Yard, 2 pickups/week	\$1,164.99	\$1,276.78
6 Cubic Yard, 3 pickups/week	\$1,747.53	\$1,915.23
6 Cubic Yard, 4 pickups/week	\$2,330.00	\$2,553.60
6 Cubic Yard, 5 pickups/week	\$2,912.52	\$3,192.01
8 Cubic Yard, 1 pickup/week	\$739.67	\$810.67
8 Cubic Yard, 2 pickups/week	\$1,479.35	\$1,621.36
8 Cubic Yard, 3 pickups/week	\$2,219.04	\$2,432.05
8 Cubic Yard, 4 pickups/week	\$2,958.74	\$3,242.75
8 Cubic Yard, 5 pickups/week	\$3,698.41	\$4,053.42
Extra loose cubic yard, per pickup	\$49.11	\$53.80
Drop Box Miscellaneous Fees (per occurrence):		
Return Trip	\$13.37	\$14.65
Roll-out Container over 10 feet (per p/u)	\$4.02	\$4.40
Unlock Container (per p/u)	\$2.00	\$2.19
Gate Opening (per p/u)	\$2.00	\$2.19

Commercial service includes, in addition to the garbage service chosen, one weekly recycling pickup, both utilizing containers provided by the contractor. Multiple-family service includes recycling pickup weekly or more frequently as needed using containers provided by the contractor. Cart-based compostable collection may be provided with multiple-family and commercial service on a subscription fee basis if requested. All commercial rates include a monthly hazardous waste fee computed by the King County Health Department.

E. Residential Rates – Senior (age 65+)/low income.

Weekly Pickup	2022 Rate	2023 Rate
1 20-gallon Garbage Cart	\$14.22	\$15.58
1 32/35-gallon Garbage Cart	\$17.76	\$19.47

Section 2. Update of Taxes, Rates & Fees Schedule. The Taxes, Rates and Fees Schedule, effective as of January 1, 2022, is amended to reflect the amendments set forth in this ordinance and is incorporated herein as if set forth in full. Such amended Taxes, Rates and Fees Schedule is attached hereto as **Exhibit A** and supersedes and replaces all other prior versions.

Section 3. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date: This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force on January 1, 2023.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF
NOVEMBER, 2022.**

CITY OF NORTH BEND:

Rob McFarland, Mayor

APPROVED AS TO FORM:

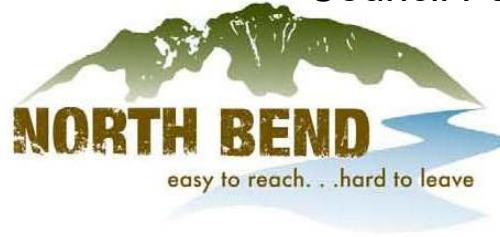
Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published:

Effective: January 1, 2023

Susie Oppedal, City Clerk



**LEGAL NOTICE
CITY OF NORTH BEND
King County, Washington**

NOTICE OF RATE INCREASE

NOTICE IS HEREBY GIVEN, pursuant to RCW 35.21.157, that Republic Services has provided notice of a rate increase for its solid waste disposal services to be effective in January 2023. This rate increase is due to an increase in the Consumer Price Index for the Seattle-Tacoma Metropolitan area and an increase in the disposal rates charged by King County. The North Bend City Council will consider the proposed rate increase at its meeting to be held on Tuesday, November 15, 2022, at 7:00 p.m. at City Hall, 920 SE Cedar Falls Way, North Bend, WA. For those that don't wish to attend the in-person meeting, a teleconference option will be available using Zoom Meetings, with detailed meeting access information to be provided on November 10, 2022 on the City website calendar item for the [November 15, 2022 City Council meeting](#).

The following rates (excluding taxes and fees) are proposed for 2023:

32/35 gallon residential garbage cart - \$26.56 per month
60/64 gallon residential garbage cart - \$43.35 per month
1 cubic yard commercial detachable container (loose) - \$138.65 per month

For additional information on the proposed rate increases please contact Finance Director Richard Gould at rgould@northbendwa.gov.

Posted: November 4, 2022

Published in the Snoqualmie Valley Record: November 4 & 11, 2022



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-138
Motion Authorizing 10-year Solid Waste Collection Contract with Republic Services from April 1, 2024 through March 30, 2034	Department/Committee/Individual	
	Mayor Rob McFarland	
	City Administrator – David Miller	
	City Attorney – Mike Kenyon/Lisa Marshall	
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm & Econ Development – Rebecca Deming	
	Finance – Robert Gould	
Cost Impact:	Public Works – Mark Rigos, P.E.	X
Fund Source:		
Timeline: Immediate		
Attachments: Contract, (Due to large document size the 178 page Contract with Proposal is available electronically at the following link: Full Contract), PowerPoint Slides		

SUMMARY STATEMENT:

The City of North Bend's current Comprehensive Solid Waste, Recyclables, and Yard Waste Collection Contract with Republic Services expires on March 31, 2024, after using two two-year extensions. City staff have pursued an open, competitive procurement process during 2022. Several updates have been provided to the City's Transportation and Public Works Committee during 2022.

The City coordinated with its consultant, Epicenter Services, to prepare draft requests for proposals (RFP) in May 2022. An "industry review draft" was distributed to all known vendors who have responded to past solid waste collection RFPs in King County. Feedback was obtained in early June 2022, then the final RFP was issued in July 2022. Three companies submitted proposals to the City in September 2022: Republic Services, Recology, and Waste Management.

Proposals were evaluated and scored using the criteria outlined in the RFP with 60 max. points for the quantitative component (rates) and 40 max. points for qualitative components. The quantitative component was based solely on the base rate proposal reflecting the draft contract provided as part of the RFP. The qualitative components included RFP document review, interviews, and reference checks. Results of the proposal scores are as follows:

Table 1. Proposal Evaluation & Scoring

Evaluation Element	Republic Services	Recology	Waste Management
Contract Compliance	5	10	8
Customer Service	12	10	12
Community Outreach & Education	8	10	8
Qualitative Score	25	30	28
Quantitative Score	60.0	50.2	46.7
TOTAL SCORE	85.0	80.2	74.7

Republic Services earned the highest overall score with the primary reasons for the selection based on the city's comprehensive evaluation process which included:

1. Partner with the City on North Bend's Downtown Foundation.
2. Commitment to equity and diversity in internal staffing.
3. Smartphone based apps for easy access by community residents to relevant information.
4. Longer customer service hours, with hundreds of trained agents networked.

City Council Agenda Bill

<ol style="list-style-type: none"> 5. Peace of mind that we have a global leader in sustainable initiatives as our partner. 6. Robust community education and outreach implementation.
--

City staff and consultant worked with Republic Services, the highest rated proponent, to finalize the new collection contract. The contract is included as Exhibit A. Highlights from the new contract include:

- Increased service requirements during winter weather and labor interruptions.
- Discounted curbside pickup of appliance and bulky items.
- Electric support vehicles for route managers and education staff.
- Additional educational outreach and promotion.
- Additional performance fees for unsatisfactory hauler performance.
- Inflation-related rate increases capped at 5%.

The base rate proposals exclude any costs associated with contract alternatives, city administrative fees, and taxes. Republic Services proposed rates at approximately \$2.68 million per year, Recology was \$3.21 million per year, and Waste Management was \$3.45 million per year. All rate proposals indicated a significant rate increase from current rates. The primary reasons for the rate increase include:

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

The table below shows the current contract 2022 rates, current contract 2023 rates, and the new contract proposed rates in 2022 dollars for the most common service level for each line of business. Both the 2023 rates and the proposed rates will be adjusted due to inflation and disposal fees for 2024 per the contracts. The current rates include the city administrative fee, but proposed rates do not.

Table 2. Garbage Rates

Common Service Levels	Current Contract 2022 Rates	Current Contract 2023 Rates	New Contract (April 1, 2024) Proposed Rates (in 2022 Dollars)
Residential 32 Gallon Cart	\$24.23	\$26.56	\$35.83
3 Cubic Yard Container	\$330.24	\$361.91	\$427.01
Compacted Drop-box	\$280.17	\$306.91	\$399.14
Estimated Annual Service Revenues	\$2.07 M	\$2.27 M	\$2.67 M

The city's current administrative fee on the solid waste collection contract is 7.5% which currently provides approximately \$150,000 annually to the City. An increase in the administrative fee to 10% on the new contract rates in 2024 would provide approximately \$100,000 more revenue annually. These funds are utilized for solid waste contract management, solid waste and recycling grant matches, and road pavement maintenance programs due to pavement damage caused by heavy garbage trucks

King County's new disposal rate restructure will be implemented in 2024 where there will be a new fee assessed. Work is currently being performed on specifically how this fee will be included in the solid waste rates and annual adjustments. Both the current contract and new contract will be amended in 2023 once the methodology is determined.

City Council Agenda Bill

City staff and the consultant discussed service issues from last winter with Republic Services including efforts to be taken in the new contract to avoid similar issues. As part of the contract, Republic Services has agreed to donate \$10,000 to the North Bend Downtown Foundation in 2022 and \$30,000 in 2023. Additionally, Republic Services has committed to donating \$10,000 annually to the North Bend Downtown Foundation over the ten years of the new contract beginning April 1, 2024.

Proposal:

The Administration recommends approving the ten-year Comprehensive Solid Waste, Recyclables, and Yard Waste Collection Contract with Republic Services for the period April 1, 2024, through March 30, 2034.

City staff also recommends increasing the city administrative fee from 7.5% to 10% at the start of the new contract in April 2024.

Financial Information:

With the proposed new contract, the community will be seeing increased rates due to market conditions, however the new rates are comparable to neighboring cities with relatively new contracts. The outreach and education in the new contract may encourage enough diversion opportunities that customers can downsize their garbage container size to save money.

The increase in administrative fee will provide approximately \$100,000 additional annual funding to the City for solid waste and road maintenance related projects.

APPLICABLE BRAND GUIDELINES: Consistent delivery of quality basic services.

COMMITTEE REVIEW AND RECOMMENDATION: This item was discussed at the October 25, 2022 Transportation and Public Works Committee meeting and was recommended for approval and placement on the Main Agenda for discussion.

RECOMMENDED ACTION: **MOTION to approve AB22-138, authorizing the Mayor to enter into and execute the Comprehensive Garbage, Recyclables, and Compostables Collection Services Contract with Republic Services for the period April 1, 2024 through March 30, 2034 and to increase the City Administrative Fee to 10% effective April 1, 2024.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
November 15, 2022		

FINAL DRAFT 11-2-22

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

**City of North Bend
and
Rabanco Ltd, dba Republic Services of Bellevue**

April 1, 2024 – March 31, 2034

INDUSTRY REVIEW DRAFT

**Comprehensive Garbage, Recyclables, and Compostables
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EXHIBITS:

- EXHIBIT A: Service Area
- EXHIBIT B: Contractor Rates
- EXHIBIT C: Recyclables List
- EXHIBIT D: Rate Modification Example
- EXHIBIT E: City of North Bend Identity Theft Prevention Program
- EXHIBIT F: Contract Proposal Enhancements

INITIAL CITY REVIEW DRAFT

This Comprehensive Garbage, Recyclables, and Compostables Collection Services Contract (hereafter, "Contract"), passed by the North Bend City Council at its regular meeting on the _____ day of _____, 2022. This Contract is made and entered into this _____ day of _____, 2022 (hereafter the "Date of Execution"), by and between the City of North Bend, a municipal corporation (hereafter "City"), and Rabanco Ltd, dba Republic Services of Bellevue, Inc. (hereafter "Contractor").

RECITALS

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

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

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

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

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

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

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

AGREEMENT

1. DEFINITIONS

The following definitions apply to terms used in this Contract:

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

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

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

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

1.4 Can: A receptacle that is a Customer-provided water-tight galvanized sheet-metal or plastic container not exceeding four (4) cubic feet or thirty-two (32) gallons in capacity; fitted with two (2) sturdy looped handles, one on each side. All Cans shall be rodent and insect-resistant and kept in sanitary conditions by their owner at all times.

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

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

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

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

1.9 Compostables: Any organic waste material that is Source-separated for processing or composting, such as Yard Debris, clean scrap wood, and Food Scraps generated by any Residential, Multifamily or Commercial Customers. Shredded uncontaminated paper, cardboard, and compostable plastics shall only be accepted as a Compostable material to the extent permitted by Contractor's composting processor.

1.10 Contractor: Rabanco Ltd, dba Republic Services of Bellevue, which has contracted with the City to provide all Services identified in this Contract, including, but not limited to, collecting, transporting, and disposing of Garbage and collecting, processing, marketing, and transporting of Recyclables and Compostables.

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

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

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

1.14 County: King County in Washington State.

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

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

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

1.18 Date of Commencement of Service: April 1, 2024, which is the date that the Contractor agrees to commence the provision of Services as described throughout this Contract.

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

1.20 Day/Days: Calendar days unless otherwise specified.

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

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

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

1.24 Emergency: An emergency declared by the Governor of the State of Washington pursuant to RCW 43.06.220(1) or RCW 38.08 or an emergency declared by the City of North Bend pursuant to North Bend Municipal Code Chapter 2.68, RCW 38.52.070(2) and RCW 39.04.280

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

1.26 Extra Unit: Excess material that does not fit in the Customer's primary Container. An Extra Unit is 32-gallon equivalent and may be contained in either a plastic bag (only for Garbage) or Garbage can.

1.27 Food Scraps: All compostable pre- and post-consumer food waste, such as whole or partial pieces of produce, meats, bones, cheese, bread, cereals, coffee grounds, or eggshells, and food-soiled paper, such as paper napkins, paper towels, paper plates, coffee filters, paper take-out boxes, pizza boxes, or other paper products accepted by the Contractor's selected composting site. Food Scraps shall not include dead animals, plastics, diapers, cat litter, liquid wastes, ashes, pet wastes, or other materials prohibited by the selected composting facility. The range of Food Scraps handled by the Compostables collection program may be changed from time to time upon the mutual agreement of the Parties to reflect those materials allowed by the jurisdictional health department for the frequency of collection provided by the Contractor.

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

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

- A. Defined as hazardous by 40 C.F.R. Part 261.3 and regulated as Hazardous Waste by the United States Environmental Protection Agency under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") of 1976, 42 U.S.C. § 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments ("HSWA") of 1984; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, as may be amended; or any other federal statute or regulation governing the treatment, storage, handling, or disposal of waste imposing special handling or disposal requirements similar to those required by Subtitle C of RCRA;
- B. Defined as dangerous or extremely hazardous by WAC 173-303-040, as may be amended, and regulated as dangerous waste or extremely hazardous waste by the Washington State Department of Ecology under the State Hazardous Waste Management Act, Chapter 70A.300 RCW, or any other State statute, regulation or rule governing the treatment, storage, handling, or disposal of wastes and imposing special handling requirements similar to those required by Chapter 70A.300 RCW; and

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

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

1.30 Holidays: The statutory holidays observed by the King County Disposal System.

1.31 Inclement Weather: Adverse weather conditions documented by data substantiating that weather conditions were extreme for the period of time for which Contractor claims unavoidable delay.

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

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

1.34 Office Hours: The times during which a Contractor administrative and management staff shall be available to respond to City staff inquiries. Office Hours shall be 8:00 a.m. PST through 5:00 p.m. PST, Monday through Friday of each week. Holidays are excluded.

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

1.37 Party: Either the City or the Contractor.

1.38 Parties: The City and Contractor.

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

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

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

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

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

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

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

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

1.47 Source-separated: Certain reclaimable materials that are separated from Garbage by the generator for recycling or reuse, including but not limited to Recyclables, Compostables, and other materials. Construction and demolition materials containing less than 10% (ten percent) non-recyclable contamination which are collected and processed to recovery recyclable materials shall be considered Source-separated for the purposes of this Contract.

1.48 State: The State of Washington.

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

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

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

1.52 WUTC: Washington Utilities and Transportation Commission.

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

2. TERM OF CONTRACT

The Term of this Contract is ten (10) years starting on the Date of Commencement of Service.

3. CONTRACTOR REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the City as follows:

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

4. SCOPE OF WORK

4.1 General Collection System Requirements

4.1.1 Service Area

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

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

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

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

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

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

4.1.2 Service to Residences on Private Roads and Driveways

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

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

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

4.1.3 Hours/Days of Collection

All collections by Contractor shall be made between the hours of 7:00 a.m. and 7:00 p.m. PST Monday through Thursday for Residential Customers and Monday through Friday for Commercial Customers, unless the City authorizes either a temporary extension of hours or days or a site-specific authorization to collect a particular Customer outside of the specified regular collection times. Friday or Saturday collection is allowed to the extent consistent with Holiday schedules (Section 4.1.6) and Inclement Weather schedule (Section 4.1.7).

4.1.4 Employee Conduct

The Contractor's employees collecting Garbage, Recyclables, or Compostables shall at all times be courteous, refrain from loud, inappropriate or obscene language, exercise due care, perform their work without delay, minimize noise, and avoid damage to public and private property. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return all Containers, in an upright position, with lids closed and attached, to their original set-out location.

If on private property, Contractor employees shall follow the regular pedestrian walkways and paths, returning to the street after replacing empty Containers. Contractor employees shall not trespass or loiter, cross flowerbeds, hedges, planting strips, or property of adjoining premises, or meddle with property that does not concern them or their task at hand. While performing work under the Contract, Contractor employees shall wear a professional and presentable uniform with a company emblem visible to the average observer and carry photo identification on their person.

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

If any person employed by the Contractor to perform collection services is, in the opinion of the City, incompetent, disorderly, or otherwise unsatisfactory, the City shall promptly document the incompetent, disorderly, or unsatisfactory conduct in writing and transmit the documentation to the Contractor with a demand that such conduct be corrected. The Contractor shall promptly investigate any written complaint from the City regarding any unsatisfactory performance by any of its employees and take immediate corrective action. The City reserves the right to request at any time that the person be removed from all performance of additional work under this Contract. The Contractor shall remove the employee from Contract work within four (4) hours of City notification.

4.1.5 Disabled Persons Service

The Contractor shall provide carry-out service for Garbage, Recyclables, and Compostables to Single-Family Residence Customers in cases where no household member has the ability to place Containers at the Curb, at no additional charge. The Contractor shall accept documentation from either a government agency or medical professional to qualify for carry-out service.

4.1.6 Holiday Schedules

The Contractor shall observe the same holiday schedule as the King County transfer stations. When a Holiday falls on a regular collection day, the Contractor shall reschedule the remainder of the week of

regular collection to the next succeeding business day. The Contractor may not collect Single-Family Residence and Multifamily Garbage, Recyclables, or Compostables earlier than the regular collection day due to a Holiday. Commercial collections may be made one (1) day early only with the consent of the Commercial Customer. Holiday scheduling information shall be included in written program materials, on the Contractor's website, on the Contractor's social media accounts, and by press releases to general news media in the Service Area by the Contractor the week prior to the Holiday affecting service.

4.1.7 Inclement Weather and Other Service Disruptions

During periods of Inclement Weather as defined in Section 1.31, Contractor shall notify the City by 7:00 a.m. PST on the same business day of Inclement Weather of Contractor's plans for collection for each day of Inclement Weather.

During a service disruption due to Inclement Weather as defined in Section 1.31, Contractor shall within twenty-four (24) hours of the City's request, provide Drop-boxes for Garbage, Recyclables, and Compostables at two (2) locations designated by the City. The number of Drop-boxes and servicing schedule shall be sufficient to handle the volume of delivered Garbage, Recyclables, and Compostables without overflow. Within four (4) business hours of the City's notice to Contractor that Drop-boxes are reaching maximum capacity, Contractor shall remove the overflowing Garbage, Recyclables, and Compostables from Drop-boxes, add more Drop-boxes, or replace overflowing Drop-boxes with empty Drop-boxes. The Contractor shall provide this service to the City at no additional cost, provided that the City shall use its best efforts to seek reimbursement at Contract rates on behalf of the Contractor in the event that FEMA reimbursement is available in response to a declared disaster.

The Contractor shall collect Garbage, Recyclables, and Compostables from Customers with interrupted service on a day of the same week of the interrupted service. If Inclement Weather as defined in Section 1.31 persists, Contractor shall collect Garbage, Recyclables, and Compostables on the first day that regular service to a Customer resumes and shall collect reasonable accumulated volumes of materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 7:00 p.m. PST and/or on Saturdays following disruptions due to Inclement Weather in order to finish collection routes.

If successive Inclement Weather events occur on the same scheduled collection day(s) two collection cycles in a row for a single collection day (i.e., Tuesday Customers), an additional collection will be made on the earliest day possible in the same week, (i.e. not waiting for the regularly scheduled collection day for the missed area.) If multiple days are missed due to Inclement Weather in multiple weeks, collections shall be made on the next regularly scheduled collection day.

The Inclement Weather/disruption in service requirements in this Section 4.1.7 may be changed upon mutual written agreement of the Contractor and City at any time during the term of this Contract.

All Holiday and weather policies shall be included in program information provided to customers. On each Inclement Weather day, the Contractor shall release notices of service disruption and alternative collection schedules to a media list approved by the City notifying residents of the modification to the collection schedule. The Contractor shall use automated dialing services, e-mail, or text messages to inform Customers at the route level about service changes, provided that Customers shall be provided the

option of using their preferred method or to opt out of communications. Contractor shall update their website with Inclement Weather conditions by 8:00 a.m. PST.

When closure of roadways providing access or when other non-Inclement Weather-related events beyond the Contractor's control prevent timely collection on the scheduled day, the Contractor shall make collections on the first day that regular service to a Customer resumes, collect reasonable accumulated volumes of materials equal to what would have been collected on the missed collection day(s) from Customers at no extra charge. Following notification to the City, the Contractor will be provided temporary authorization to perform collection services after 7:00 p.m. PST and/or on Saturdays following such disruptions in order to finish collection routes. Such temporary authorization may be rescinded if the City believes that Customers are adversely impacted. Delayed or interrupted collections as described in this Section are not considered service failures for purposes of Section 6.

4.1.8 Suspending Collection from Problem Customers

The City and Contractor acknowledge that some Customers may cause disruptions or conflicts that make continued service to that Customer unsafe or unreasonable. Those disruptions or conflicts may include, but not be limited to, repeated damage to Contractor-provided Containers, threatening or intimidating behavior toward the Contractor, repeated late placement of Carts or Cans at Curbside followed by demands for return collection at no charge, repeated unsubstantiated claims of Contractor damage to a Customer's property, repeated contamination of Recyclables or Compostables.

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

Single-Family Customers with suspended service shall be assessed a standby fee in accordance with Exhibit B.

4.1.9 Missed Collections

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

The failure of the Contractor to collect Garbage, Recyclables, or Compostables that has been set out by a Customer in the proper manner on the appropriate day shall be considered a missed collection, and the Contractor shall collect the materials from the Customer within one (1) collection day of the Contractor's receipt of notification of the missed pick-up. If the Contractor is notified of a missed pick-up by 12:00 p.m. PST the following collection day, the missed pick-up shall be collected that same day. The Contractor shall maintain an electronic record of all calls related to missed collections and the response provided by the Contractor. Such records shall be made available for inspection upon request by the City, and the information shall be included in monthly reports. (See Reporting requirements set forth in Section 4.3.4).

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

4.1.10 Same Day Collection

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

4.1.11 Requirement to Recycle and Compost and Quality Assurance

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

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

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

The Contractor shall visually inspect Recyclables and Compostables Containers before or during servicing. If the Contractor observes that a Container contains more than five percent (5%) contamination, the Contractor shall document the contamination and leave an "oops" tag, noting the specific contamination for the Customer. If contamination is observed through video recording technology on collection vehicles,

the Contractor shall email notification of contamination to the Customer within one (1) business day if Customer has provided an email address. If a Customer received more than three (3) oops tags and/or contamination emails in a ninety (90) day period, then the Contractor shall call the Customer to provide education and outreach services.

The Contractor shall develop and implement a contamination reduction program to reduce contamination in Customers' Recyclables and Compostables Containers. The Contractor's program shall include communication, education and outreach to Customers, methods for evaluating Customer compliance with recycling and contamination standards, and thresholds and policies for removing or re-establishing Recyclables and/or Compostables collection service to a customer. The contamination reduction program shall be adjusted annually or as needed to address continuous improvement to reduce contamination and increase the marketability of Recyclables. A contamination fee shall be considered an option if other methods to not generate the desired results, however, such contamination fee shall only be assessed under the terms and conditions agreed upon by the City at the time such contamination fee is authorized in writing to be a component of the contamination reduction program. The Contractor shall develop the program in consultation with the City and shall implement the program only on approval of the program by the City.

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

4.1.12 Routing, Notification and Approval

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

The Contractor may change the day of collection by giving notice at least thirty (30) Days prior to the effective date of the proposed change to and obtaining written approval from the City. On the City's approval, the Contractor shall provide affected Customers with at least fourteen (14) Days written, phone, and/or e-mail notice of pending changes of collection day. The Contractor shall obtain the prior written approval from the City of the notice to be given to the Customer, such approval shall not be unreasonably withheld. Routing changes shall be implemented in a manner that ensures that no Customer shall receive less than their normal frequency of service (e.g. a weekly Customer shall have no more than seven [7] days between collection days during the shift to the new collection date).

4.1.13 Vehicle and Equipment Type/Age/Condition/Use

The Contractor shall use collection vehicles no more than ten (10) years old. Support vehicles such as those driven by management staff, route supervisory staff, and Container delivery (if feasible) shall be fully electric. Backup collection vehicles used fewer than thirty (30) Days a calendar year shall not be subject to the age requirement that applies to regularly-used vehicles, but shall be: (i) presentable, (ii) in safe working order, (iii) not leak fluids, and (iv) subject to all other conditions of this section. The accumulated annual use of individual backup vehicles shall be reported in the Contractor's monthly report.

No later than January 1, 2025, the City and Contractor shall jointly determine the feasibility of replacing the vehicles used for collection of one or more stream under this Contract with electric vehicles starting July 1, 2026. The feasibility determination shall consider factors such as the prior performance of electric vehicles in similar operating environments, availability of charging infrastructure, net sustainability impact, economic costs or savings, and other relevant factors. Upon written City approval, the Contractor shall proceed with implementation as soon as practicable.

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

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

Collection vehicles shall be maintained in a good condition at all times which includes but is not limited to being clean and sanitary, and shall be thoroughly washed at least once each week. All collection vehicles shall have appropriate safety markings, including all highway lighting, flashing and warning lights, clearance lights, and warning flags, all in accordance with current statutes, rules and regulations. Collection vehicles shall be repaired and/or have damaged areas repainted upon showing rust on the body or chassis or at the request of the City. All parts and systems of the collection vehicles shall operate properly and be maintained in a condition compliant with all federal, State, and local safety requirements and be in a condition satisfactory to the City. All collection vehicles shall be equipped with variable tone or proximity activated reverse movement backup alarms.

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

All collection vehicles shall be labeled with signs on both the front and driver's side door and the rear of the collection vehicle which clearly indicate the vehicle inventory number. The Customer Service phone number shall be labeled on the side of the collection vehicle. Signs shall use lettering not less than four inches (4") high and shall be clearly visible from a minimum distance of twenty feet (20'). Signs, sign locations and the phone number shall be subject to approval by the City. No advertising shall be allowed on Contractor vehicles other than the Contractor's name, logo and Customer Service phone number and website address, unless otherwise previously approved in writing by the City. Special promotional messages may be permitted, upon the City's prior written approval. The City's approval shall be in writing and solely within the City's discretion. In addition, any Contractor vehicle regularly used in the City shall include a placard clearly visible at the rear of the vehicle. This placard will show, in lettering at least 12" high, an abbreviated truck designation number specific to the Contractor's operating division, for example NB-1, NB-2, etc., limited to a two (2) digit numeral to aid in rapid identification of vehicles to allow more precise reporting and correction of any unsatisfactory condition related to specific vehicles. All Contractor collection, service, and supervisory vehicles shall be equipped with properly licensed two-way

communication equipment. The Contractor shall maintain a base station or have communication equipment capable of reaching all collection areas. Collection vehicles shall also be equipped with backup cameras, as well as route-recording cameras integrated with their on-board route management system.

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

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

4.1.14 Container Requirements and Ownership

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

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

In the event the Customer uses a Can for Extra Units, the Contractor shall handle the Customer-owned Can in such a way as to prevent undue damage. The Contractor shall be responsible for unnecessary or unreasonable damage to or for unrequested removal of Customer-owned Containers. Notwithstanding the foregoing or anything else in this Agreement, Contractor shall only be required to collect Customer-owned Containers that are safe for Contractor's personnel to handle and that are in good working order.

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

4.1.14.1 Garbage, Recyclables, and Compostables Carts

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

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

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

In the event that a Customer repeatedly damages a Container or requests more than one replacement Container during the term of the Contract due to negligence or intentional misuse, the Contractor shall forward in writing the Customer's name and address to the City. The City shall then attempt to resolve the problem. In the event that the problem continues, the Contractor may charge the Customer a City-approved Container repair or replacement fee and/or discontinue service to that Customer, provided the City provides previous written approval.

4.1.14.2 Detachable Containers and Drop-box Containers

The Contractor shall furnish and install one (1), two (2), three (3), four (4), six (6), and eight (8) cubic yard Detachable Containers, and ten (10), twenty (20), thirty (30), and forty (40) cubic yard non-compacted Drop-box Containers to any Customer who requires their use for storage and collection of Garbage, Recyclables or Compostables within three (3) collection days of the Customer's request. Containers shall

be located on the premises in compliance with any related ordinance, and a manner satisfactory to the Customer and for collection by the Contractor.

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

Detachable Containers shall be watertight and equipped with tight-fitting metal or plastic covers; have four (4) wheels for Containers four (4) cubic yards and under unless site-specific concerns dictate the use of a non-wheeled Container; be in good condition for Garbage or Recyclables storage and handling; be safe for the intended use; and, have no leaks, jagged edges, or holes. Drop-box Containers shall be all-metal, and if requested by a Customer, equipped with a tight-fitting screened or solid cover operated by a winch in good repair.

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

As between the Contractor and the City, all Containers on Customers' premises are at the Contractor's risk and not the City's. The Contractor shall repair or replace within one (1) collection day any Container that was supplied by or taken over by the Contractor and was in use if the City Code Compliance Inspector, King County Health Department Inspector, or other agent having safety or health jurisdiction determines that the Container fails to comply with reasonable standards or constitutes a health or safety hazard.

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

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

In the event that a Customer damages a Detachable Container or Drop-box Container due to negligence or intentional misuse, the Contractor may charge the Customer a City-approved Container repair or

replacement fee and/or discontinue service to that Customer, provided the City provides previous written approval.

4.1.14.3 Ownership

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

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

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

4.1.14.4 Container Colors and Labeling

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

All distributed Containers shall be labeled with instructional information and contact information that include both a Customer Service phone number and website address. All reused Recyclables Containers used under the previous collection contract shall be relabeled within ninety (90) Days of the start of collection services under this Contract. Contractor shall visually inspect labels on reused Garbage and Compostables Containers that were used under the previous collection contract and shall relabel Containers as needed. All labels shall be approved by the City prior to ordering by the Contractor. Location of the label on Containers shall be subject to the City's prior approval. Labels shall be replaced when faded, damaged, or upon the City or Customer request. Should any changes be made to the Garbage, Recycling, or Compostables collection program that affect the accuracy of information provided on labels, the Contractor at their sole expense shall reproduce and reaffix labels on all Containers. The City may, at its option, provide labels to the Contractor to be affixed on the initial and replacement inventory of Carts and the Contractor shall place on the specified location on each Cart. The City shall reimburse the Contractor the Contractor's cost of applying the City's labels.

All Detachable Containers and Drop-box Containers to be used for Garbage or Recyclables collection shall have materials preparation instructions and phone/contact information, including both a Customer Service phone number and a website address, printed on a sticker, and subject to the prior written approval of the City. All Detachable Containers and Drop-box Containers to be used for Garbage or

Recyclables shall have a sticker affixed that indicates no charge replacement or repair for leaky or broken Containers, and provides a phone number to call. Information shall be printed in a size that is easily read by the users, on durable UV-resistant label stock squarely affixed to each Container. All labels shall be approved in writing by the City prior to ordering by the Contractor. Location of the label on the Containers shall be subject to the City's prior written approval.

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

4.1.14.5 Container Weights

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

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

4.1.14.6 Container Removal Upon City or Customer Request

The Contractor shall remove all Containers automatically upon service cancellation within seven (7) Days of the cancellation or upon three (3) business days of specific Customer, property manager, property owner, or the City's request. The contents of removed Containers shall be managed as if they were collected on a regular route (e.g. Recyclables shall be recycled, Compostables shall be delivered for composting). The disposal or recycling of materials accumulating in the Contractor's Container at the former Customer's location after the final Customer-paid collection shall be at the Contractor's, not Customer's cost. Failure to remove Containers within the specified timeline shall be subject to the same performance fees as delayed Container delivery for that Customer sector.

4.1.15 Spillage

All loads collected by the Contractor shall be completely contained in collection vehicles at all times, except when material is actually being loaded. Hoppers on all collection vehicles shall be cleared frequently to prevent the occurrence of unnecessary blowing, leakage, or spillage.

The Contractor shall develop spill response procedures for review and approval by the City before initiating any work under this Contract. Prior to operating any vehicle in the City, all Contractor vehicle drivers shall be provided with hands-on training on the location, maintenance, and use of spill kits and associated containment and notification procedures. Such training shall be provided to all vehicle drivers at least annually.

Cleanup and removal of leakage or spillage of materials upon the road surface or exposed appurtenances that occurs during collection shall be initiated by the Contractor within four (4) hours of the Contractor's knowledge of the leakage or spillage and completed as soon as practicable at its sole expense. Any associated spillage or leakage entering the City's municipal storm system shall be cleaned up or removed

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

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

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

4.1.16 Pilot Programs

The City may wish to test and/or implement one or more new services or developments in waste stream segregation, materials processing, or collection technology at some point during the term of this Contract. The City shall notify the Contractor in writing at least ninety (90) Days in advance of its intention to implement a pilot program or of its intentions to utilize a new technology system on a partial or City-wide basis, or as negotiated between the City and Contractor. The costs (or savings) accrued by City-initiated pilot programs shall be negotiated prior to implementation. If the City deems the pilot a success, and desires to incorporate the service or development represented in the pilot program in the terms of this Contract, the City and Contractor each agrees to negotiate in good faith and in accordance with Section 8.14 to include the provisions of the pilot program into this Contract, including any costs or savings to be accrued and timeline for implementation. Notwithstanding the foregoing or anything else in this Contract, City shall not implement any pilot program that conflicts with the rights granted to Contractor by this Contract.

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

4.1.17 Disruption Due to Construction

The City reserves the right to construct any improvement or to permit any such construction in any Public Street in such manner as the City may direct, which may have the effect for a time of preventing the Contractor from traveling the accustomed route or routes for collection. However, the Contractor and the City shall develop a reasonable workaround to enable the Contractor to continue to collect Garbage, Recyclables, and Compostables to the nearest extent possible as though no interference existed upon the streets or alleys normally traversed. This shall be done at no extra expense to the City or Customers.

4.1.18 Contractor Planning and Performance Under Labor Disruption

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

1. The Contractor's specific staffing plan to cover Contract Services, including identification of staff resources moved from out-of-area operations and the use of local management staff to provide basic services. The staffing plan shall be sufficient to provide recovery of full operations within seven (7) Days following the initiation of the disruption.
2. Contingency training plans to ensure that replacement and management staff operating routes are able to continue to collect route data and follow collection and material delivery procedures for all material streams collected from Customers.
3. Identification of temporary Drop-box Containers or staffed packer truck locations for all material streams. For all sites identified in the Contractor-prepared Strike Contingency Plan, the Contractor shall list the property owner/lessee's contact information and the date on which permission for temporary use was received. The City shall review these locations, after which the City shall approve or deny in writing use of specific locations.
4. A recovery plan to address how materials will be collected in the event of a short-notice disruption that does not allow the Contractor to collect all materials on their regular schedule (e.g. a wildcat strike) within seven (7) Days following the initiation of the disruption.

Except to the extent necessary to preserve Contractor's attorney-client privilege and attorney work doctrine rights, The Contractor shall keep the City informed of the status of active labor negotiations affecting the Services hereunder on a timely basis, specifically during the period surrounding the end of employee contracts with Contractor employees. In the event that labor disruptions of any kind cause reductions in service delivery, the Contractor shall inform the City within three (3) hours by phone and e-mail of the nature and scope of the disruption, as well as the Contractor's immediate plans to activate some or its entire Strike Contingency Plan. At the close of each service day during a Labor Disruption, the Contractor shall report to the City via e-mail the areas (per a detailed map) and customer counts of served and un-served customers by material stream and service sector.

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

In the event that a disruption lasts more than one full Single-Family Residential collection cycle, the Contractor with approval of the City shall provide Drop-box Containers or staffed packer trucks for Customer use for each affected material stream in approved locations throughout the affected route

areas, as well as the collection of reasonable quantities of accumulated materials at no additional charge on the next regular collection cycle for each material.

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

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

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

The performance fees listed as 2 through 4, above, are intended to apply to any complete work stoppage where alternative but substantially equivalent service by non-striking employees is not provided by the Contractor or otherwise. In the event substantially equivalent service is provided by the Contractor through the employment of non-striking employees at any point during the course of the labor disruption, the Contractor is entitled to reduce the amount of the performance fees that otherwise would be due on a pro-rata basis, based on the percentage of Contract service provided to Customer provided on that day. Given the nature of the failure arising from labor disruptions, the Contractor shall not be allowed any cure period opportunity or rectification process; provided, however, that the City may elect to receive the equivalent value of additional services, as negotiated, in lieu of these specific performance fees.

The Contractor's failure to comply with the Contractor-prepared Strike Contingency Plan of this section shall be subject to a special fee of one thousand dollars (\$1,000) per day for its non-compliance during the Labor Disruption event. This special fee is separate compensation to the City for the Contractor's failure to plan and execute the provisions of this section. The special fee shall be paid to the City within thirty (30) Days of the Contractor's receipt of the City's invoice.

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

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

4.1.19 Site Planning and Building Design Review

The Contractor shall, upon request and without additional charge, make available site planning assistance to either the City and Customers or potential Customers, and shall publicize the appropriate contact information for this function. The site planning assistance shall be available for all new construction or

remodeling of buildings and structures within the Service Area, and shall address the design and planning of Garbage, Recyclables, and Compostables removal areas and their location upon the site of the proposed construction or remodeling project. Contractor planning assistance for optimizing loading docks and other areas shall also be available for existing building managers when realigning Garbage, Recyclables, and Compostables services.

4.1.20 Safeguarding Public and Private Facilities

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

4.1.21 Transition and Implementation of Contract

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

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

Any additional promotional, educational, informational, and outreach materials provided by the Contractor to Customers in connection with the initial transition and implementation of the Contract shall be designed, developed, printed, and delivered by the Contractor unless otherwise directed by the City, at the Contractor's cost, and subject to the City's prior review and written approval and the City's final

approval as to method of delivery. Customer materials must contain important dates/timelines, answers to frequently asked questions, information about translations available, and a phone number and website for Customers needing additional information. Materials must contain clear and accurate wording, easy-to-read font, professional visual graphics, be free of inaccurate or misleading information, be free of typographical errors, and must be printed on minimum 30% post-consumer recycled paper. The City will be provided a minimum of two (2) weeks to review any of the materials included in the Contractor's Transition and Implementation Plan schedule to allow sufficient time for the City prior review and written approval.

4.1.22 Performance Review

The City may, at its option, and upon reasonable notice to the Contractor, conduct a review of the Contractor's performance under this Contract. If conducted, the performance review shall include, but is not limited to, a review of the Contractor's performance relative to requirements and standards established in this Contract, including Customer Service standards. The Contractor agrees to fully cooperate with the performance review and work with City staff and consultants to ensure a timely and complete review process. Should the City exercise its discretion to retain a consultant to conduct a performance review, Contractor agrees to pay one-half of the cost of the consultant within thirty (30) days of the City's delivery to the Contractor consultant's invoices for conduct of the Performance Review.

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

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

The City may, at its option, and upon reasonable notice to the Contractor, design and implement an alternative annual Contract compliance monitoring program with or without Contractor performance incentives. If such a program is desired by the City, the City and Contractor agree to negotiate in good faith the monitoring methodologies used to ensure accurate and unbiased sampling of performance data. The City shall bear the costs of City staff, City-retained consultants and performance incentives (if used) and the Contractor shall bear the costs of Contractor staff and route costs to perform the monitoring.

4.1.23 Continual Monitoring and Evaluation of Operations

The Contractor's supervisory and management staff shall be available to meet with the City in person or via phone/video conference, at the City's option, on a weekly basis during the period three (3) months

before and two (2) months after the Date of Commencement of Service and monthly throughout the term of the Contract to discuss operational and Contract issues.

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

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

4.1.24 Collection/Disposal Restrictions

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

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

The Contractor shall not knowingly collect or dispose of Unacceptable Waste or other hazardous materials that are either restricted from disposal or would pose a danger to collection crews. If materials are rejected for this reason, the Contractor shall leave a written notice in a prominent location with the rejected materials listing why they were not collected and providing the Customer with a contact for further information about proper disposal options for such materials.

Title to and liability for any Unacceptable Wastes that are included with any materials collected under this Contract by Contractor despite the City's and Contractor's attempts to prevent the inclusion of such materials shall not pass to Contractor, but shall remain with the party from whom such Unacceptable Waste or any such other materials or substances is received.

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

directs the Contractor to charge. In addition, hauling fees charged by the Contractor in such instances shall be no higher than those provided for in Exhibit B.

4.1.25 Emergency Response

Contractor shall assist the City in the event of an Emergency. The Contractor's services shall be provided as soon as practical upon City direction and paid at the Contract rates in Exhibit B.

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

4.1.26 Violation of Ordinance

The Contractor shall report in writing immediately to the City any observed violation of the City's ordinances providing for and regulating the Containerization, collection, removal and disposal of Garbage, Recyclables and Compostables.

4.1.27 Hiring Preference

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

Upon the hiring of a displaced collection worker represented by Teamsters Local 117 or 174, the Contractor shall be required to keep the displaced worker whole in regard to the workers' pay and benefit accruals earned as of the date of displacement. To the extent application of the Contractor's collective bargaining agreement would otherwise result in a reduction in pay or benefits, the existing pay/benefit accrual will be maintained at the current rate until such time as the applicable bargaining agreement provision(s) provides for an increase. Any displaced worker must be reimbursed by the company for any required COBRA payment made in order to retain health care coverage during the time period between displacement and when the worker would become eligible for such benefits under the collective bargaining agreement.

4.2 Collection Services

4.2.1 Single-Family Residence Garbage Collection

4.2.1.1 Subject Materials

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

4.2.1.2 Containers

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

4.2.1.3 Specific Collection Requirements

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

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

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

Carry-out surcharge fees shall be assessed only to those Customers who choose to have the Contractor move Containers to reach the collection vehicle at its nearest point of access, unless otherwise provided for in this Contract. The Carry-out surcharge fee listed in Exhibit B shall be charged once for all three collection streams.

Garbage in excess of Container capacity or the subscribed service level shall be collected and properly charged as Extra Units to the Customer; with the exception of excess Garbage collection otherwise authorized under this Contract at no additional charge to the Customer. Extra charges may be assessed for materials loaded so as to lift the Container lid in excess of six inches (6") from the normally closed position. Overweight Containers shall be left at the Curb and tagged with written notification as to why it was not collected.

The Contractor shall maintain route lists in sufficient detail to allow accurate recording and charging of all Extra Units. Customers shall be allowed to specify that no Extra Units be collected without prior Customer notification, which shall be provided by the Single-Family Residence Customer no less than one (1) business day prior to that Customer's regular collection. If a Customer specifies no Extra Units, then such materials shall be left at the Curb uncollected and tagged with written notification as to why it was not collected.

Collections shall be made from Single-Family Residences on a regular schedule on the same day and as close to a consistent time as possible.

4.2.2 Single-Family Residence Recyclables Collection

4.2.2.1 Recyclable Materials

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

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

4.2.2.2 Containers

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

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

4.2.2.3 Specific Collection Requirements

Single-Family Residence Recyclables collection shall occur weekly on the same day as each household's Garbage and Compostables collection. Collections shall be made from Residences on a regular schedule on the same day and as close to a consistent time as possible. The Contractor shall collect on Public Streets and Private Roads in the same location as Garbage collection Service.

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

4.2.3 Single-Family Residence Compostables Collection

4.2.3.1 Subject Materials

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

4.2.3.2 Containers

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

The default Compostables Cart size shall be ninety-six (96) gallons, with thirty-two (32) or thirty-five (35) gallon and sixty-four (64) gallon sizes available upon request. The first Compostables Carts shall be provided as part of the service. A second Compostables Cart may be rented from the Contractor, at the rental rate provided in Exhibit B.

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

4.2.3.3 Specific Collection Requirements

Properly prepared Compostables shall be collected every-other-week on the same day as Residential Garbage and Recyclables collection. Collections shall be made from Single-Family Residence Customers on a regular schedule on the same day and as close to a consistent time as possible. Compostables in excess of one hundred-ninety-two (192) gallons per collection cycle may be charged at the additional Cart rate (if that Customer has ordered one or more additional Compostables Carts) or as Compostables Extra Units in thirty-two (32) gallon increments in accordance with Exhibit B.

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

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

Unflocked, undecorated, natural holiday trees (Christmas Trees) will be collected at no additional cost on the first full week of scheduled Compostable materials collection each year from all Single-Family and Multifamily Residences in the City if prepared as two feet (2') by two feet (2') by four feet (4') sections or bundles.

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

4.2.4 Multifamily and Commercial Customer Garbage Collection

4.2.4.1 Subject Materials

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

4.2.4.2 Containers

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

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

The Contractor may use either or both front-load or rear-load Detachable Containers to service Multifamily and Commercial Customers. However, not all collection sites within the Service Area may be appropriate for front-load collection due to limited maneuverability or overhead obstructions. The Contractor shall provide Containers and collection services capable of servicing all Customer sites, whether or not front-load collection is feasible.

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

4.2.4.3 Specific Collection Requirements

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

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

relocation may charge those Customers additional access fees and/or hourly fees consistent with Exhibit B.

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

4.2.5 Multifamily and Commercial Recyclables Collection

4.2.5.1 Subject Materials

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

4.2.5.2 Containers

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

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

4.2.5.3 Specific Collection Requirements

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

The Contractor shall not charge fees for opening gates, moving Containers, or unlocking Containers.

4.2.6 Multifamily and Commercial Customer Compostables Collection

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

4.2.6.1 Subject Materials

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

4.2.6.2 Containers

Carts shall be provided to subscribers as part of the service at no additional charge. The Contractor shall offer regular thirty-two (32) or thirty-five (35) gallon, sixty-four (64) gallon, and ninety-six (96) gallon Compostable Carts at the rates set forth in Exhibit B. Materials in excess of Container capacity or the subscribed service level shall be collected and properly charged as Extra Units as directed by the City. Extra charges may be assessed for materials loaded so as to lift the Container lid in excess of six inches (6") from the normally closed position. The Contractor shall develop and maintain route lists in sufficient detail to allow accurate recording and charging of all Extra Units.

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

4.2.6.3 Specific Collection Requirements

Multifamily and Commercial Customer Compostables collection shall occur weekly or twice-weekly, as subscribed for and requested by the Customer. Collections shall be made on a regular schedule on the same day(s) of the week and as close to a consistent time as possible. The Contractor's crews shall make collections in an orderly and quiet manner, and shall return Containers after emptying to the same location as found, with their lids closed. The Contractor shall not charge fees for opening gates, moving Containers, or unlocking Containers.

4.2.7 Permanent Drop-Box Container Garbage Collection

4.2.7.1 Subject Materials

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

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

4.2.7.2 Containers

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

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

4.2.7.3 Specific Collection Requirements

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

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

4.2.8 Temporary (Non-Event) Container Customers

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

4.2.9 Special Event Services

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

with the City, and provide such Customers and the City with a summary of the volumes of materials disposed of and diverted for recycling and composting.

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

4.2.10 Municipal Services

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

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

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

4.2.10.1 Street and Park Litter and Recycling

The Contractor shall provide weekly Garbage and Recyclables collection for street litter or recyclables receptacles (including the provision of plastic bags to line the receptacles) within the City.

4.2.10.2 City Facilities

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

FACILITY	ADDRESS
City Hall & Public Works Facility	920 SE Cedar Falls Way
Gardiner-Weeks Memorial Park & Mt Si Senior Center	411 Main Ave S
Meadowbrook Farm	1711 Boalch Ave NW
Tollgate Farm & Park	1300 W North Bend Way
Torguson Park	750 E North Bend Way
WWTP	400 Bendigo Blvd N

At any time during the term of this Contract, the City may add facilities in addition to those listed above. Additional municipal facilities added during the term of the Contract shall also be provided collection, including new facilities developed within the City Service Area, as well as municipal facilities in future annexation areas covered by this Contract. If the aggregate applicable rate charge that corresponds with the services provided to all municipal facilities under this agreement at any time exceeds by more than 10% the aggregate applicable rate charge corresponding with the services required for the facilities

identified above (each calculated at then-applicable rates), then Contractor shall be entitled to recover the aggregate applicable rate charge for such additional services (calculated at then-applicable rates).

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

The Contractor shall provide, at contractor's expense, secure on-site paper shredding as follows:

- (1) every-other-weekly service for up to two (2) 64-gallon carts at City Hall;
- (2) monthly service for one (1) 64-gallon cart at public works offices;
- (3) monthly service for one (1) 64-gallon cart at community and economic development offices; and
- (4) four (4) hours of service at an annual community shredding event to be coordinated with the City. North Bend residents will be allowed to bring up to two (2) banker-boxes of paper for on-site shredding during the scheduled time.

The Contractor shall provide support to the City for up to two (2) clean-up events each calendar year to support City code enforcement compliance ("Code Enforcement Clean-Up Events"). At each Code Enforcement Clean-Up Event, the Contractor shall provide a forty (40) yard Drop-box Container (or other size approved by the City) without charge to the City. Contractor shall waive delivery, rental, disposal, and other fees for the first two (2) Code Enforcement Clean-Up Events each year. Contractor shall charge City the then applicable rate for services in excess of the foregoing services. All Source-separated materials shall be properly recycled or composted by the Contractor.

4.2.11 Community Events

The Contractor shall provide Drop-box Containers, hauling, and composting for two (2) spring and one (1) fall Yard Waste events each year at the Contractor's expense. The Contractor shall provide up to two (2) Drop-box Containers at each of these Yard Debris events and shall remove the Containers no later than noon the following Monday. If the City elects to provide additional Yard Debris collection events, the Contractor shall provide Containers at no charge and the City shall compensate Contractor for hauling and composting. The site will be monitored by City staff. The Contractor shall offer a similar service for scrap metal (to include all metal scrap including appliances, car parts, barbeques, prepared lawn mowers, and similar items) at a designated location once each year.

The Contractor shall support one drop-off Garbage collection events scheduled each year for City residents (proof of residency required) in a location mutually agreed upon between Contractor and City within the Service Area. At each event, the Contractor shall provide Drop-box Containers and/or Detachable Containers for Garbage. The Contractor shall provide all equipment, transportation, and disposal fees at no additional charge to the City.

The Contractor shall provide Garbage, Recycling, and Compostables services for the City-sponsored special events identified below at no additional charge to the City or users. Container capacity shall be coordinated with event staff to ensure that sufficient Container capacity and collection frequency is provided by the Contractor.

- Beautification Days
- Downtown Block Party
- Festival at Mt Si
- Trick or Treat Street
- Holly Days

At any time during the term of this Contract, the City may add City-Sponsored Community Events in addition to those listed above, subject to the Contractor's verification that such additional services do not create a conflict of interest or violate any legal obligations, and provided that if the City adds more than one event every year, the Contractor shall charge City the then applicable rates for services provided for those additional events.

4.2.12 On-call Bulky Waste Collection

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

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

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

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

The Contractor shall maintain a separate log listing service date, materials collected, Customer charges, weights, and whether the item was recycled or disposed. This log shall be provided to the City on a monthly basis in accordance with Section 4.3.4. On-call Bulky Waste collection must occur during the hours and days specified in Section 4.1.3, with the exception that Saturday collection is permissible if it is more convenient for Customers. The Contractor's crews shall make collections in an orderly, non-disruptive and quiet manner.

4.2.13 Excluded Services

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

4.3 Collection Support and Management

4.3.1 General Customer Service

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

1. Answering Customer phone calls and e-mail requests;
2. Requesting at start of service Customer's preference for notification of service changes via out-dialer calls, texts, or e-mails;
3. Informing Customers of current, new, and optional services and charges;
4. Handling Customer subscriptions and cancellations;
5. Receiving and resolving Customer complaints;
6. Dispatching Drop-box Containers, temporary Containers, and special collections;
7. Billing;
8. Maintaining and updating regularly as necessary a user-friendly internet website; and
9. Maintaining and updating regularly as necessary a user-friendly website compatible with mobile devices.
10. Complying with the City's Identity Theft Prevention Program requirements, as attached in Exhibit E.

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

4.3.2 Specific Customer Service Requirements

The Contractor shall maintain a service base for storing and/or maintaining collection vehicles within forty (40) miles of the Service Area. Operations and management staff shall be located at that site. Call center operations may be remotely provided, but shall be based within the United States of America. The Contractor's call center shall be open and available with Customer Service representatives during Call Center Hours. Customer calls shall be taken during Call Center Hours by a person, not by voicemail. Outside of Call Center Hours, the Contractor shall have an answering or voicemail service available to record messages from all incoming phone calls.

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

4.3.2.1 Customer Service Representative Staffing

During Call Center Hours, the Contractor shall maintain sufficient call center staff to answer and handle complaints and service requests from all Customers without delay. If incoming phone calls necessitate,

the Contractor shall increase staffing levels as necessary to meet Customer Service demands. The Contractor shall provide and publicize a phone number capable of handling service-related text messages.

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

The Contractor shall provide additional staffing during the transition and implementation period, and especially from six (6) weeks prior to the Date of Commencement of Service, through the end of the fourth (4th) month after the Date of Commencement of Service, to ensure that sufficient staffing is available to minimize Customer waits and inconvenience. The Contractor shall receive no additional compensation for increased staffing levels during the transition and implementation period. Staffing levels during the transition and implementation period shall be subject to the City's prior review and approval.

4.3.2.2 City Customer Service

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

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

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

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

4.3.2.3 Service Recipient Complaints and Requests

The Contractor shall record all complaints and service requests, regardless of how received, including date, time, Customer's name and address, if the Customer is willing to give this information, method of transmittal, and nature, date and manner of resolution of the complaint or service request in a computerized daily log. Any phone calls received through the Contractor's non-Call Center Hours voicemail or answering service shall be recorded in the log no later than by the following business day. The Contractor shall make a conscientious effort to respond directly to the Customer and resolve all complaints within one (1) business day of the original phone call, letter, or electronic communication, and service requests within the times established throughout this Contract for various service requests. If a

longer response time is necessary for complaints or requests, the reason for the delay shall be noted in the log, along with a description of the Contractor's efforts to resolve the complaint or request.

The Customer Service log shall be available for inspection by the City, or its designated representatives, during the Contractor's Office Hours, and shall be in a format approved by the City. The Contractor shall provide a copy of this log in an electronic format from the Microsoft Office suite (or other City-approved format) of software to the City with the monthly report.

4.3.2.4 Handling of Customer Calls

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

A Customer shall be able to talk directly with a Customer Service representative when calling the Contractor's Customer Service phone number during Office Hours without navigating an automated phone answering system that takes longer than sixty (60) seconds to navigate. An automated voicemail service or phone answering system may be used when the office is closed. Customer Service representatives shall provide accurate and applicable information, and shall not provide confusing, inaccurate, or misleading information.

4.3.2.5 Corrective Measures

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

4.3.2.6 Contractor Website

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

1. Contact information, noting available hours for each contact method;
2. Collection schedules;
3. Current day of collection map;
4. Material preparation requirements;
5. Available services and options;
6. Rates and fees for all sectors and services;
7. Holiday scheduled and resulting delays in collections;

8. Inclement Weather service changes;
9. Current education and outreach materials;
10. Translation options available; and
11. Other relevant service information for its Customers.

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

1. Obtain day-of-service information;
2. Report customer service issues;
3. Connect to voice services for Customer Service;
4. Review and pay bills;
5. Manage services; and
6. Switch service levels or order additional services;

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

The website design shall be usability tested and then submitted to the City for approval a minimum of three (3) months prior to the Date of Commencement of Service of this Contract, and then changes shall be subject to the City's prior approval throughout the term of this Contract. The Contractor shall provide among its local staff a knowledgeable and proficient communications manager that is responsive to the City's request(s) for changes to the Contractor's website. Changes requested by the City consisting of textual messages only shall be implemented within seventy-two (72) hours of the time of the request(s). Changes requested by the City, of a textual nature, that are related to an emergency or time-sensitive situation (such as an Inclement Weather event, windstorm, or event preventing access to a Customer's regular place of Container set-out) shall be implemented as soon as possible but not more than three (3) hours from of the time of request. Changes requested by the City that include a graphical component must be implemented within five (5) Days of the time of the request.

The Contractor shall provide timely updates to the website, and provide links to the City's website, checking on a regular basis that all links are current. The website shall include information requested by the City translated into up to three additional languages designated by the City. Upon the City's request, the Contractor shall provide a website utilization report indicating the usage and communication preferences.

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

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

The Contractor's Customer Service representatives shall be fully knowledgeable of all collection services available to Customers, including the various services available to Single-Family Residence, Multifamily and Commercial Customers. For new Customers, Customer Service representatives shall explain all Garbage, Recyclables, and Compostables collection options available depending on the sector the Customer is calling from. For existing Customers, the representatives shall explain new services and options, and resolve recycling issues, collection concerns, missed pickups, Container deliveries, disposal

and recycling options for items not accepted by Contractor, and other Customer concerns. Customer Service representatives shall be trained to inform Customers of Recyclables and Compostables preparation specifications. City policy questions shall be forwarded to the City for response.

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

4.3.2.8 Customer Communications

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

The City and Contractor recognize that Customer preferences for their method of communication may change during the Term of this Contract and agree to adjust Customer Service expectations to match Customer preferences. For example, if call traffic to the Contractor's phone-based call center reduces over time and is supplanted by an increase in texting, the Contractor shall shift staff resources accordingly to ensure high levels of Customer Service. The City and Contractor agree to review Contract requirements periodically and negotiate in good faith any desired improvements to the Contract service standards related to Customer Service delivery.

4.3.3 Contractor's Customer Billing Responsibilities

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

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

The Contractor shall be responsible for the following:

1. Generating combined Garbage, Recyclables, and Compostables collection bills for all Customers;
2. Generating bills printed double-sided, on at least thirty percent (30%) post-consumer recycled-content paper;
3. Generating bills that include at a minimum a statement indicating the Customer's current service level, current charges and payments, appropriate taxes and fees, Customer Service contact information and website information;
4. Generating bills that clearly state the date at which late fees will be assessed for non-payment;
5. Generating bills that have sufficient space on the front or back of the bill for educational or informational messaging, as directed by the City;
6. Accepting automatic ongoing payments from Customers via debit or credit card, checking or savings account withdrawal, or by wire transfer. No transaction fees may be levied on any Customer payments;
7. Accepting, processing, and posting payment data each business day;
8. Accepting bill inserts from the City for specific Customer sectors;
9. Maintaining a system to monitor Customer subscription levels, record excess Garbage or Compostables collected, place an additional charge on the Customer's bill for the excess collection, and charge for additional services requested and delivered. This system shall maintain a Customer's historical account data for a period of not less than six (6) years from the end of the fiscal year in accordance with the City's record retention policy, and in a manner that is instantaneously accessible to Customer Service representatives needing to refer to Customer Service data and history;
10. Accepting and responding to Customer requests for service level changes, missed or inadequate collection services, and additional services;
11. Collecting unpaid charges from Customers for collection services;
12. Implementing rate changes as specified in Section 5.3.; and
13. Applying the City's low-income senior and low-income disabled utility billing discount program to eligible Customer bills. The City shall provide the Contractor with a list of pre-screened eligible Customers and the Contractor shall apply the appropriate discount to the accounts of those Customers.

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

Upon seven (7) Days written notice, the Contractor shall provide the City with a paper and/or electronic copy at the City's discretion of the requested Customer information and history, including but not limited to Customer names, service and mailing addresses, contact information, service levels, and current account status.

4.3.4 Reporting

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

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

4.3.4.1 Weekly Reports

On a weekly basis, by 5:00 p.m. PST each Monday, the Contractor shall provide the City with a list of Customer-initiated service stops logged the previous week. The Contractor shall provide the Customer name, address, service level, phone number and the date of the service stop. The City shall use this information to enforce its mandatory collection requirements.

4.3.4.2 Monthly Reports

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

1. A log of all Customer complaints including Customer name, property name and address, date of contact, complaint, and resolution.
2. A tabulation of the number of Single-Family, Multifamily, and Commercial accounts by service level/Container size, and service frequency.
3. Report from the Contractor's Customer Service phone system showing total call volume, total calls answered, and average speed of answer.
4. Website utilization report showing total number of Customers managing their services on-line, total number of messages received via website, data on site usage, and other data or information as the City may require for internal reporting purposes.
5. A summary of total Garbage, Recyclables, and Compostables quantities collected (in tons) for each collection sector by month and year-to-date. Drop-box tonnage shall be separated out and shall include total number of hauls. The summary shall include program participation statistics including: a summary of Multifamily and Commercial participation in recycling programs and set-out statistics for Residential Garbage, Compostables, and Recyclables collection Services. Where item counts are more appropriate for certain Recyclables or Bulky Wastes (e.g. appliances, etc.), reporting item counts are sufficient. The summary shall include the names of facilities used for all materials and tonnage delivered to each facility.
6. A summary of Recyclables quantities by commodity including contamination levels and processing residues disposed as Garbage, and notice of any significant changes in market value, if any.
7. A list of Commercial Customers with Recyclables collection, including monthly Garbage Container capacity and monthly Recyclables Container capacity.

8. A description of any vehicle accidents, infractions, and reported leaks.
9. A description of any changes to collection routes, Containers, vehicles (including the identification of backup vehicles not meeting contract standards with the truck number and date of use), Customer Service or other related activities affecting the provision of services.
10. A description of any promotion, education, and outreach efforts, including where possible, samples of materials, and summary of any feedback or response received from Customers.
11. A description of Contractor activities and tonnages for City services and events.

If collection vehicles are used to service more than one Customer sector, the Contractor shall develop an apportioning methodology that allows the accurate calculation and reporting of collection volumes and quantities from the different sectors. The apportioning methodology shall be subject to the prior review and written approval of the City, and shall be periodically verified through field-testing by the Contractor.

4.3.4.3 Annual Reports

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

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

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

4.3.4.4 Ad Hoc Reports

The City may request and receive from the Contractor up to six (6) ad hoc reports each year, at no additional charge to the City. These reports may include Customer Service database tabulations to identify specific service level or participation patterns or other similar information. Reports shall be provided in a City-defined format and with Microsoft software (or other City-approved software) compatibility within

thirty (30) days of the request. These reports shall not require the Contractor to expend more than one hundred (100) staff hours per year to complete.

4.3.4.5 Other Reports

If requested by the City, the Contractor shall provide daily route information for all service sectors and collection streams for the purpose of evaluating potential collection system changes during the Contract Term.

4.3.5 Promotion and Education

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

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

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

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

The Contractor shall provide translations of the proper preparation and disposal of Garbage, Recyclables, and Compostables into up to three additional languages designated by the City.

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

and minimum of a two (2) week advance review period for all printed materials. All edits and design changes shall be completed at Contractor's expense.

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

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

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

4.3.6 Field Monitoring

The City may periodically monitor collection system parameters such as participation, Container condition, Container weights, waste composition and Customer satisfaction. The Contractor shall assist the City by coordinating the Contractor's operations with the City's field monitoring to minimize inconvenience to Customers, the City and the Contractor.

4.3.7 Transition to Next Contractor

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

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

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

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

5. COMPENSATION

5.1 Compensation to the Contractor

5.1.1 Rates

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

The Contractor shall offer a low-income household/low-income senior citizen discount based on the qualification criteria and discounts consistent with other City utilities, and may be revised from time to time. The payment of charges for services listed in Exhibit B by Customers shall comprise the entire compensation due to the Contractor.

In the event that a Customer places Excluded Materials or Unacceptable Materials in a Container, and the Contractor collects those materials inadvertently and incurs extraordinary expenses dealing with those materials, the Contractor may charge the Customer the actual costs of managing those materials, as approved by the City, such approval to not be unreasonably withheld. Actual costs shall include additional transportation, handling, and disposal costs incurred by the Contractor for handling only those specific materials traceable to that Customer.

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

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

5.1.2 Itemization on Invoices

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

The Contractor shall not charge separately for the collection of Source-Separated Recycling collection.

Charges for excess Garbage or Compostables, Single-Family, Multifamily and Commercial Compostables collection, Drop-box Container On-call collection services, On-call Bulky Waste collection services,

Container rentals, or temporary Container services shall be itemized on the Customer invoices separately by the Contractor, and may at no time exceed the charges set forth in Exhibit B.

The County disposal fee as it exists on the date of execution or as thereafter modified shall be itemized separately on Customer invoices with charges for Drop-box Container service. The Contractor shall charge Drop-box Customers the actual disposal cost plus ten percent (10%) and the current state excise tax on the disposal component.

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

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

5.1.3 Discontinuing Service for Nonpayment

The Contractor may use any legal means, including appropriate lien rights, to enforce Customer payment obligations and may discontinue service and recover Containers from non-paying Customers provided that such Customers are provided with ten (10) days prior written notice that service will be discontinued for non-payment. Non-paying Customers shall continue to be billed for the minimum level of service for their Customer type pursuant to the City's mandatory collection ordinance.

The Contractor may charge a one-time cart redelivery fee listed in Exhibit B to Customers who want to restart service who have previously had their service terminated for nonpayment and had carts removed. The cart redelivery fee shall be applied as a flat charge, regardless of the number of carts delivered (e.g. Garbage, Recyclables and Compostables).

5.2 Compensation to the City

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

The Contractor shall also pay to the City an Administrative Fee of ten percent (10%) on or before the fifteenth (15th) day of each month during the term of this Contract, starting the month following the initiation of the fee. The Administrative Fee shall be based on the gross receipts received by the Contractor from all Customers under this Agreement, excluding Drop-box Container disposal fees. The Contractor's obligations to pay the Administrative Fee shall survive the termination date of this Contract until the Contractor is no longer receiving payments from Customers for services provided under this Contract.

The Contractor shall fully participate with any City billing audit to confirm the Contractor's Customer receipts during any accounting period during the term of the Contract. The audit shall be confined to confirming Customer billing rates, Contractor receipts for services provided under this Contract and bad debt recovery.

The City may implement or change the Administrative Fee level in any year, provided that the change is synchronized with the annual Contractor rate modification described in Section 5.3.1. The City shall notify the Contractor of the new Administrative Fee for the following year by September 1st, and the Contractor shall itemize and include the appropriate adjustment in its Rate Adjustment Statement provided October 1st of each year. If the Administrative Fee is adjusted, either up or down, the Contractor shall add or subtract an amount equivalent to the State excise tax (1.75% in 2022), as may be adjusted from time to time by the State.

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

5.3 Compensation Adjustments

5.3.1 Initial and Annual CPI Service Component Modification

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

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

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

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

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

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

5.3.2 Changes in Disposal Fees

Periodic adjustments shall be made to the disposal fee component of the Contractor's service fees contained in Exhibit B to reflect increases or decreases in County disposal fees for Garbage. In the event of a change in the County disposal fees, the disposal fee component of each service fee charged to Customers shall be adjusted by the percentage increase or decrease in the County disposal fees. Disposal fee changes shall be effective on the date of the County's implementation, provided that the Contractor has provided Customers forty-five (45) Days notification. The disposal component of the Customer charge shall be updated to reflect King County disposal charges and fees intended to be collected from the Customer through the Contractor in a revenue-neutral manner. An example of rate modifications due to Garbage disposal fee changes is provided in Exhibit D.

If the County changes its method of funding the County solid waste management system, the City and Contractor agree to modify the method of customer billing as appropriate, in a revenue neutral manner.

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

5.3.3 Changes in Disposal or Compostables Processing Sites

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

If the Contractor is no longer be able to find a processing site for all collected Compostables, after a good faith effort to locate a processing facility acceptable to the City, the City reserves the right to drop the collection of affected components of Compostables, such as Food Scraps, from the Contract and the City and the Contractor shall negotiate rate reduction in good faith to reflect the reduction in service. If the

Contractor is subsequently able to find a processing site for Compostables or the site that was originally used for processing Compostables is able to resume taking the dropped materials, the City reserves the right to reinstate the collection of those materials and to reverse the previously agreed rate reduction for the reduction in service.

5.3.4 Recycling Commodity Value

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

5.3.5 New or Changes in Existing Taxes

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

5.3.6 Changes in Service Provision

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

5.4 Change in Law

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

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

6. FAILURE TO PERFORM, REMEDIES, TERMINATION

The City expects high levels of Customer Service and collection service provision. Performance failures shall be discouraged, to the extent possible, through specific performance fees for certain infractions and through Contract default for more serious lapses in service provision. Section 6.1 details infractions subject to performance fees and Section 6.2 details default provisions and procedures.

6.1 Performance Fees

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

Performance fees shall include:

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

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

Action or Omission		Performance fees
	Containers on or before the Date of Commencement of Service.	(\$25) per Container for each incident occurring after the Date of Commencement of Service.
19	Failure to include City-authorized instructional/promotional materials when Garbage, Recycling, and/or Compostables Containers are delivered to Single-Family Residences, or failure to affix required City-authorized labels on Containers.	One hundred dollars (\$100) per incident.
20	Failure to separate collection of Recyclables materials from Service Area Customers from non-Service Area customers.	Five thousand dollars (\$5,000) per route per day.
21	Failure to properly use an authorized switchable placard or nameplates as described in Section 4.1.13.	One hundred dollars (\$100) per placard per vehicle per Day.
22	Inability to reach the Contractor's staff via the emergency phone number.	Two hundred-fifty dollars (\$250) per incident.
23	The use of outdated, or unauthorized labels, or lack of required labels on Contractor-provided Containers.	One hundred dollars (\$100) per Container.
24	Failure to have correct rates for all Customer sectors and service levels listed on the Contractor's website.	Two hundred-fifty dollars (\$250) per Day.

Nothing in this Section shall be construed as providing an exclusive list of the acts or omissions of the Contractor that shall be considered violations or breaches of the Contract, and the City reserves the right to exercise any and all remedies it may have with respect to these and other violations and breaches. The performance fees schedule set forth here shall not affect the City's ability to terminate this Contract as described in Section 6.2.

Performance fees, if assessed during a given month, shall be invoiced in writing by the City to the Contractor. The Contractor shall be required to pay the City the invoiced amount within thirty (30) Days of billing. Failure to pay performance fees shall be considered a breach of this Contract, and shall accrue penalty charges of eight percent (8%) per month of the amount of any delinquent payments.

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

6.2 Contract Default

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

1. The Contractor fails to commence the collection of Garbage, Recyclables, or Compostables, or fails to provide any portion of service under the Contract on the Date of Commencement of

Service, or for a period of more than five (5) consecutive Days at any time during the term of this Contract, except as provided pursuant to Section 4.1.18 or Section 8.15;

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

The City reserves the right to pursue any remedy available at law or in equity for any default by the Contractor. In the event of default, the City shall give the Contractor ten (10) Days prior written notice of its intent to exercise its rights, stating the reasons for such action. However, if an emergency shall arise (including but not limited to a hazard to public health or safety or the environment) that does not allow ten (10) Days prior written notice, the City shall promptly notify the Contractor of its intent to exercise its rights. If the Contractor cures the stated reason within the stated period, or initiates efforts satisfactory to the City to remedy the stated reason and the efforts continue in good faith, the City may opt to not exercise its rights for the particular incident. If the Contractor fails to cure the stated reason within the stated period, or does not undertake efforts satisfactory to the City to remedy the stated reason, then the City may at its option terminate this Contract effective immediately.

If Contractor abandons or violates any material provision of this Contract, fails to fully and promptly comply with all its obligations, or fails to give any reason satisfactory to the City for noncompliance, and fails to correct the same, the City, after the initial ten (10) Days' notice, may then declare the Contractor to be in default of this Contract and notify the Contractor of the termination of this Contract. A copy of said notice shall be sent to the Contractor and surety on the Contractor's performance bond. Upon receipt of such notice, the Contractor agrees that it shall promptly discontinue the services provided under this Contract. The surety of the Contractor's performance bond may, at its option, within ten (10) Days from such written notice, assume the services provided under this Contract that the City has ordered discontinued and proceed to perform same, at its sole cost and expense, in compliance with the terms and conditions of the Contract, and all documents incorporated herein.

In the event that the surety on the Contractor's performance bond fails to exercise its option within the ten (10) day period, the City may complete the Services provided under this Contract or any part thereof, either through contract with another party or any other means.

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

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

7. NOTICES

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

To City:	Public Works Director City of North Bend 920 SE Cedar Falls Way North Bend, WA 98045 (425) 888-7650
To Contractor:	Rabanco Ltd, dba Republic Services of Bellevue 1600 227 th Ave NE Bellevue, WA 98005

8. GENERAL TERMS

8.1 Collection Right

Throughout the Contract Term, the Contractor shall be the exclusive provider with which the City shall contract to collect Garbage, Compostables and Recyclables placed in designated Containers and set out in the regular collection locations within the City Service Area subject to this Contract. When asked by the Contractor, the City shall make a good faith effort to protect the exclusive rights of the Contractor under this Contract; however, the City shall not be obligated to instigate, join in or contribute to the expense of litigation to protect the exclusive rights of the Contractor unless the City's institution of or joinder in such litigation is necessary for the protection of such rights. The Contractor may independently enforce its rights under this Contract against third party violators, including, but not limited to, seeking injunctive relief, and the City shall use good faith efforts to cooperate in such enforcement actions brought

by the Contractor (without obligating the City to join any such litigation, except for as provided in this paragraph). Such efforts may include but not be limited to cease and desist letters, assistance with documenting violations, and other activities as City staff time reasonably allows.

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

The Contractor shall retain the right and cover all costs to dispose of or process and market the Garbage, Recyclables, and Compostables once these materials are placed in Contractor-provided or the City-owned Containers.

8.2 Access to Records

The Contractor shall maintain in its local office full and complete operations, Customer, financial, and Service records that at any reasonable time shall be open for inspection and copying for any reasonable purpose by the City. In addition, the Contractor shall, during the Contract term, and at least seven (7) years thereafter, maintain in an office within forty (40) miles of the Service Area for storing records pertaining to the Contract that are prepared in accordance with Generally Accepted Accounting Principles, reflecting the Contractor's Services provided under this Contract. Those Contractor's accounts shall include, but shall not be limited to, all records, invoices, and payments under the Contract, as adjusted for additional and deleted Services provided under this Contract. The City shall be allowed access to these records for audit and review purposes, subject to the same protections of the Contractor's financial or other proprietary information set forth in Section 5.3.

The Contractor shall make available copies of certified weight slips for Garbage, Recyclables, and Compostables on request within two (2) business days of the request. The weight slips may be requested for any period during the Term of this Contract.

8.3 Insurance

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

Contractor's maintenance of insurance as required by this Contract shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

8.3.1 Minimum Scope of Insurance

The Contractor shall obtain insurance that meets or exceeds the following of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 11 20 or a substitute form providing equivalent liability coverage. The policy shall include contractual liability coverage.

The policy shall include the ISO CA 9948 Form (or its equivalent) for transportation of cargo and a MCS 90 Form in the amount specified in the Motor Carrier Act. The policy shall include a waiver of subrogation in favor of the City. The City shall be named as an additional insured, via blanket-form endorsement, under the Contractor's Automobile Liability insurance policy.

2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 04 13, or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors liability, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City, using ISO blanket form additional insured endorsements CG 2010 0704 and CG 2037 0704.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State.
4. Contractor's Pollution Liability insurance coverage covering any occurrence of bodily injury, personal injury, property damage, cleanup costs, and legal defense expenses applying to all work performed under the contract, including that related to transported cargo. The City shall be named as an additional insured under the Contractor's Pollution Liability insurance policy, via blanket-form endorsement.

8.3.2 Minimum Amounts of Insurance

Contractor shall maintain at a minimum the following insurance limits:

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

8.3.3 Other Insurance Provisions

The insurance policies are to contain, or be endorsed, via blanket-form endorsement, to contain, the following provisions for Automobile Liability, Commercial General Liability, and Contractor's Pollution Liability coverage:

1. The Contractor's insurance coverage shall be the primary insurance with respect to the operations being performed as a part of this contract, additional insured includes: the City, its officials, employees, and volunteers, when required by written contract. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Contractor's insurance and shall not contribute with it. The City, its officials, officers, employees, agents, and volunteers shall be named as additional insureds on the Contractor's Automobile Liability, Commercial General Liability, and Pollution Liability insurance policies, via blanket-form endorsement.
2. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be canceled except after Contractor endeavors to provide thirty (30) Days prior written notice to the City. Such notice shall be sent directly to the City. If any insurance company refuses to provide the required notice, the Contractor shall notify the City of any cancellation of any insurance immediately on receipt of insurers' notification to that effect.

8.3.4 Acceptability of Insurers

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

8.3.5 Verification of Coverage

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

8.3.6 Subcontractors

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

8.4 Performance Bond

The Contractor shall provide and maintain at all times a valid Contractor's Performance and Payment Bond(s) in a form acceptable and approved by the City in the amount of seven hundred and fifty thousand dollars (\$750,000). The bond(s) shall be issued for a period of not less than one (1) year, and the Contractor shall provide new bond(s) to the City no less than sixty (60) Days prior to the expiration of the bond(s) then in effect. The City shall have the right to call the bond(s) in full in the event its renewal is not confirmed prior to five (5) Days before its expiration.

8.5 Indemnification

8.5.1 Indemnify and Hold Harmless

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

8.5.2 Process

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

The provisions contained herein have been mutually negotiated by the Parties. Solely to the extent required to enforce the indemnification provisions of this Section 8.5.1, Contractor waives its immunity under Title 51 RCW, Industrial Insurance; provided, however, the foregoing waiver shall not in any way preclude Contractor from raising such immunity as a defense against any claim brought against Contractor by any of its employees.

Inspection or acceptance by the City of any Services performed under this Contract shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend

to claims which are not reduced to a suit and any claims which may be compromised, with Contractor's prior written consent, prior to the culmination of any litigation or the institution of any litigation.

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

8.6 Confidentiality of Information

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

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

8.7 Assignment of Contract

8.7.1 Assignment or Pledge of Money by the Contractor

The Contractor shall not assign or pledge any of the money due under this Contract without securing the prior written approval of the surety of the Contractor's performance bond and providing at least thirty (30) day's prior written notice to the City of such assignment or pledge together with a copy of the surety's approval thereof. Such assignment or pledge, however, shall not release the Contractor or its sureties from any obligations or liabilities arising under or because of this Contract. The requirements of this section shall not apply to the grant of a general security interest in the Contractor's assets to secure the Contractor's obligations under any loan or credit facility entered into by the Contractor or the Contractor's parent.

8.7.2 Assignment, Subcontracting, and Delegation of Duties

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

In the event of an assignment, subcontracting, or delegation of duties, the Contractor shall remain responsible for the full and faithful performance of this Contract and the assignee, subcontractor, or other obligor shall also become responsible to the City for the satisfactory performance of the services to be provided under this Contract. The City may impose conditions of approval on any such assignment, subcontracting, or Change of Control, including but not limited to requiring the delivery by the assignee, subcontractor, or other obligor of its covenant to the City to fully and faithfully complete the services to be provided under this Contract or responsibilities undertaken. In addition, the assignee, subcontractor, or obligor shall sign a separate statement agreeing to abide by all terms and conditions of this Contract. The City may terminate this Contract if the assignee, subcontractor, or obligor does not comply with this clause.

For the purposes of this Contract, any Change of Control beyond ownership share trading on public trading markets of the Contractor shall be considered an assignment subject to the requirements of this section. Nothing herein shall preclude the City from executing a novation, allowing the new ownership to assume the rights and duties of the Contract and releasing the previous ownership of all obligations and liability.

8.7.3 Change of Trade Name

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

8.8 Laws to Govern/Venue

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

8.9 Compliance with Applicable Laws and Regulations

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

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

Conditions of the Federal Occupational Safety and Health Act of 1970 (OSHA), the Washington Industrial Safety and Health Act of 1973 (WISHA), and standards and regulations issued under these Acts from time-to-time must be complied with, including ergonomic and repetitive motion requirements. The Contractor must indemnify and hold harmless the City from all damages, injuries or losses assessed for the Contractor's failure to comply with the Acts and Standards issued therein. The Contractor is also responsible for meeting all federal, State, and local health and environmental regulations and standards

applying to the operation of the collection and processing systems used in the performance of this Contract.

The Contractor is specifically directed to observe all weight-related laws and regulations in the performance of these services, including axle bridging and loading requirements.

8.10 Permits and Licenses

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

The Contractor shall be solely responsible for all taxes, fees, and charges incurred, including, but not limited to, license fees and all federal, State, regional, county, and local taxes and fees, including income taxes, property taxes, permit fees, operating fees, surcharges of any kind that apply to any and all persons, facilities, property, income, equipment, materials, supplies, or activities related to the Contractor's activities under the Contract, business and occupation taxes, workers' compensation, and unemployment benefits.

8.11 Relationship of Parties

The City and Contractor intend that an independent contractor relationship shall be created by this Contract. The implementation of services shall lie solely with the Contractor. No agent, employee, servant, or representative of the Contractor shall be deemed to be an employee, agent, servant, or representative of the City.

8.12 Contractor's Relationship with Customers

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

8.13 Bankruptcy

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

8.14 Right to Renegotiate/Amend

The City shall retain the right to renegotiate this Contract or negotiate contract amendments at its discretion or based on policy changes, State statutory changes, or County rule changes, State or federal regulations regarding issues that materially modify the terms and conditions of the Contract, including but not limited to any modifications to contracting terms or policies as they relate to County disposal services. The City may also renegotiate this Contract should any State, County, or City rate or fee associated with the Contract be held illegal or any increase thereof be rejected by voters. In addition, the Contractor agrees to renegotiate in good faith with the City in the event the City wishes to change disposal locations or add additional services or developments, such as those identified through a pilot program under Section 4.1.16, to the Contract and to provide full disclosure of existing and proposed costs and operational impacts of any proposed changes.

This Contract may be amended, altered, or modified only by a written amendment or addendum executed by authorized representatives of the City and the Contractor.

8.15 Force Majeure

Provided that the requirements of this section are met, Contractor shall not be deemed to be in default and shall not be liable for failure to perform under this Contract if Contractor's performance is prevented or delayed by Acts of Nature, including but not limited to landslides, lightning, forest fires, storms, floods, freezing and earthquakes, terrorism, civil disturbances, acts of the public enemy, wars, blockades, public riots, explosions, pandemics, governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the Contractor, and are not the result of the willful or negligent act, error or omission of the Contractor; and that could not have been prevented by the Contractor through the exercise of reasonable diligence ("Force Majeure"). The Contractor's obligations under this Contract shall be suspended, but only with respect to the particular component of obligations affected by the Force Majeure and only for the period during which the Force Majeure exists.

The following events do not constitute Force Majeure: strikes, other than nationwide strikes or strikes that by virtue of their extent or completeness make the particular goods or services effectively unavailable to the Contractor; work stoppages or other labor disputes or disturbances occurring with respect to any activity performed or to be performed by the Contractor; accidents to machinery, equipment or materials; unavailability of required materials or disposal restrictions; or general economic conditions.

If as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, the Contractor shall notify the City by phone and e-mail, on or promptly after the Force Majeure is first known, followed within seven (7) Days by a written description of the event and cause thereof to the extent known; the date the event began, its estimated duration, the estimated time during which the performance of the Contractor's obligations will be delayed; the likely financial impact of the event; and whatever additional information is available concerning the event and its impact on the City and its Customers. The Contractor shall provide prompt written notice of the cessation of the Force Majeure. Whenever such event shall occur, the Contractor, as promptly and as reasonably possible, shall use its best efforts to eliminate the cause, reduce the cost, and resume performance under the Contract. In addition, if as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, the Contractor shall notify all Customers regarding the disruption in collection service in a manner similar to the notification required in the case of Inclement Weather under Section 4.1.7.

8.16 Severability

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

8.17 Waiver

No waiver of any right or obligation of either party hereto shall be effective unless in writing, specifying such waiver, and executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Contract on any occasion shall not be a bar to the exercise of the same right on any subsequent occasion or of any other right at any time.

8.18 Non-Discrimination

The Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, creed, color, sex, marital status, sexual orientation, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, any required notices setting forth the provisions of this non-discrimination clause.

The Contractor understands and agrees that if it violates this non-discrimination provision, this Contract may be terminated by the City and further that the Contractor shall be barred from performing any services for the City now or in the future, unless a showing is made satisfactorily to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

8.19 Dispute Resolution

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

8.20 Entirety

This Contract and the exhibits affixed hereto and herein incorporated by reference represent the entire agreement between the City and the Contractor with respect to the services to be provided under this Contract. No prior written or oral statement or proposal shall alter any term or provision of this Contract.

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

RABANCO LTD, DBA REPUBLIC SERVICES OF BELLEVUE CITY OF NORTH BEND

By _____

By _____
Mayor

Approved as to Form:

By _____
City Attorney

EXHIBITS

EXHIBIT A: Service Area

EXHIBIT B: Contractor Rates

EXHIBIT C: Recyclables List

EXHIBIT D: Rate Modification Examples

EXHIBIT E: City of North Bend Identity Theft Prevention Program

EXHIBIT F: Contract Proposal Enhancements

EXHIBIT A
Service Area

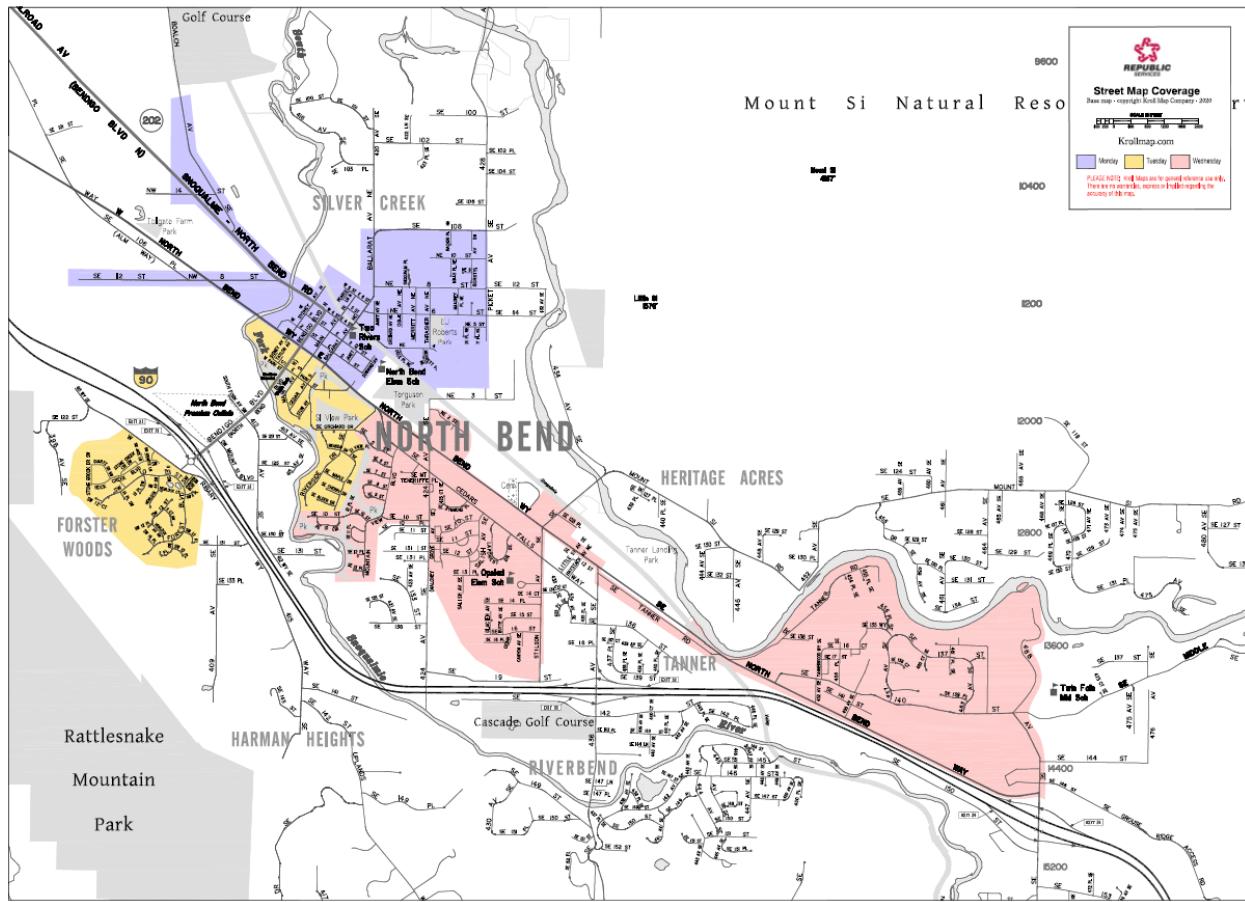


EXHIBIT B
Contractor Rates with City Administrative Fee

Residential Curbside Services	SERVICE LEVEL	DISPOSAL COMPONENT	SERVICE COMPONENT	CUSTOMER RATE
Monthly Service:				
32 Gallon Monthly Garbage Cart		\$2.07	\$18.10	\$20.17
Weekly Service:				
20 Gallon Garbage Cart		\$5.76	\$26.21	\$31.97
32 Gallon Garbage Cart		\$7.33	\$32.11	\$39.44
45 Gallon Garbage Cart		\$10.09	\$36.89	\$46.98
64 Gallon Garbage Cart		\$13.03	\$42.54	\$55.57
96 Gallon Garbage Cart		\$17.37	\$47.92	\$65.29
Additional 32 Gallon Garbage Cans		\$6.97	\$4.03	\$11.00
Extra Garbage Cans/Bags, 32 Gallon Equivalent (Each)		\$1.72	\$4.86	\$6.58
Compostables Service:				
32 Gallon EOW Compostables Cart			\$13.72	\$13.72
64 Gallon EOW Compostables Cart			\$13.72	\$13.72
96 Gallon EOW Compostables Cart			\$13.72	\$13.72
Extra Compostables Cans/Bags, 32 Gallon Equivalent (Each)				\$4.40
96 Gallon Extra Compostables Cart Rental				\$2.20
96 Gallon Extra Compostables Cart Rental + EOW Service				\$6.61
Miscellaneous Fees:				
Recycling Cart (Any Size, First 2 Included with Garbage Service)				\$2.20
Wildlife Resistant Cart Surcharge (Per Month)				\$3.30
Return Trip (Per Pickup)				\$7.71
Carry-out Charge, Per 25 ft, Per Month				\$4.40
Drive-in Charge, Per Month				\$6.61
Standby Fee, Per Month				\$5.50
Redelivery of All Carts After Service Cancellation				\$22.03
On-Call Bulky Waste Collection	SERVICE LEVEL			CUSTOMER RATE
White Goods, Except Refrigerators				\$27.54
Refrigerators & Freezers				\$55.08
Mattresses, Sofas & Chairs				\$44.07
Tires				\$11.01
Miscellaneous Garbage, Per Cubic Yard				\$33.05
MF & Commercial Carts	SERVICE LEVEL	DISPOSAL COMPONENT	SERVICE COMPONENT	CUSTOMER RATE
Weekly Service:				
20 Gallon Garbage Cart		\$5.98	\$28.86	\$34.84
32 Gallon Garbage Cart		\$7.63	\$34.77	\$42.40
45 Gallon Garbage Cart		\$10.46	\$39.54	\$50.00
64 Gallon Garbage Cart		\$13.44	\$45.20	\$58.64
96 Gallon Garbage Cart		\$17.77	\$50.57	\$68.34
Extra Garbage Cans/Bags, 32 Gallon Equivalent (Each)		\$1.63	\$7.17	\$8.80
Compostables Service:				
32 Gallon Weekly Compostables Cart			\$16.91	\$16.91
64 Gallon Weekly Compostables Cart			\$16.91	\$16.91
96 Gallon Weekly Compostables Cart			\$16.91	\$16.91
Extra Compostables Cans/Bags, 32 Gallon Equivalent (Each)				\$4.40
Miscellaneous Fees:				
Wildlife Resistant Cart Surcharge (All Sizes)				\$3.30
Return Trip (Per Pickup)				\$7.71
Carry-out Charge, Per 25 ft, Per Month				\$4.40
Drive-in Charge, Per Month				\$6.61
Redelivery of Carts After Service Cancellation (Up to 3 Carts)				\$22.03

MF & Commercial Detachable Containers (Compacted)	SERVICE LEVEL	DISPOSAL COMPONENT	SERVICE COMPONENT	CUSTOMER RATE
Compacted Containers:				
1 Cubic Yard Compacted Container	\$131.32	\$150.20	\$281.52	
1.5 Cubic Yard Compacted Container	\$197.00	\$226.27	\$423.27	
2 Cubic Yard Compacted Container	\$262.66	\$253.72	\$516.38	
3 Cubic Yard Compacted Container	\$394.00	\$359.83	\$753.83	
4 Cubic Yard Compacted Container	\$525.34	\$434.93	\$960.27	
6 Cubic Yard Compacted Container	\$788.02	\$599.04	\$1,387.06	
MF & Commercial Detachable Containers (Loose)	SERVICE LEVEL	DISPOSAL COMPONENT	SERVICE COMPONENT	CUSTOMER RATE
1 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$40.40	\$139.60	\$180.00	
2 Pickups/Week/Container	\$80.81	\$279.20	\$360.01	
3 Pickups/Week/Container	\$121.22	\$418.80	\$540.02	
4 Pickups/Week/Container	\$161.63	\$558.41	\$720.04	
5 Pickups/Week/Container	\$202.04	\$698.01	\$900.05	
1.5 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$60.60	\$215.66	\$276.26	
2 Pickups/Week/Container	\$121.22	\$431.33	\$552.55	
3 Pickups/Week/Container	\$181.84	\$647.00	\$828.84	
4 Pickups/Week/Container	\$242.46	\$862.67	\$1,105.13	
5 Pickups/Week/Container	\$303.08	\$1,078.34	\$1,381.42	
2 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$80.81	\$243.11	\$323.92	
2 Pickups/Week/Container	\$161.63	\$486.22	\$647.85	
3 Pickups/Week/Container	\$242.46	\$729.33	\$971.79	
4 Pickups/Week/Container	\$323.28	\$972.45	\$1,295.73	
5 Pickups/Week/Container	\$404.11	\$1,215.57	\$1,619.68	
3 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$121.22	\$349.22	\$470.44	
2 Pickups/Week/Container	\$242.46	\$698.44	\$940.90	
3 Pickups/Week/Container	\$363.69	\$1,047.67	\$1,411.36	
4 Pickups/Week/Container	\$484.93	\$1,396.89	\$1,881.82	
5 Pickups/Week/Container	\$606.17	\$1,746.13	\$2,352.30	
4 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$161.63	\$424.32	\$585.95	
2 Pickups/Week/Container	\$323.28	\$848.66	\$1,171.94	
3 Pickups/Week/Container	\$484.93	\$1,273.00	\$1,757.93	
4 Pickups/Week/Container	\$646.58	\$1,697.34	\$2,343.92	
5 Pickups/Week/Container	\$808.23	\$2,121.68	\$2,929.91	
6 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$242.46	\$588.43	\$830.89	
2 Pickups/Week/Container	\$484.93	\$1,176.86	\$1,661.79	
3 Pickups/Week/Container	\$727.40	\$1,765.31	\$2,492.71	
4 Pickups/Week/Container	\$969.88	\$2,353.74	\$3,323.62	
5 Pickups/Week/Container	\$1,212.35	\$2,942.17	\$4,154.52	
8 Cubic Yard Uncompacted Container:				
1 Pickup/Week/Container	\$323.28	\$732.35	\$1,055.63	
2 Pickups/Week/Container	\$646.58	\$1,464.71	\$2,111.29	
3 Pickups/Week/Container	\$969.88	\$2,197.07	\$3,166.95	
4 Pickups/Week/Container	\$1,293.17	\$2,929.43	\$4,222.60	
5 Pickups/Week/Container	\$1,616.47	\$3,661.78	\$5,278.25	
Extra Garbage:				
Extra Garbage, 32 Gallon Equivalent (Each)	\$1.95	\$6.85	\$8.80	
Miscellaneous Fees:				
Return Trip (Per Pickup)				\$11.01
Container Roll-out, Over 25 Feet (Per 25 Feet, Per Pickup)				\$5.50

	SERVICE LEVEL	DISPOSAL COMPONENT	SERVICE COMPONENT	CUSTOMER RATE
Temporary Detachable Containers	Temporary Container Hauling:			
	2 Cubic Yard Detachable Container	\$21.46	\$72.92	\$94.38
	4 Cubic Yard Detachable Container	\$42.92	\$127.29	\$170.21
	6 Cubic Yard Detachable Container	\$64.39	\$176.52	\$240.91
	Temporary Container Rental & Delivery:	DAILY RENT	MONTHLY RENT	DELIVERY CHARGE
	2 Cubic Yard Detachable Container	\$5.20	\$93.64	\$148.73
	4 Cubic Yard Detachable Container	\$5.50	\$99.15	\$148.73
	6 Cubic Yard Detachable Container	\$5.80	\$104.66	\$148.73
MF & Commercial Drop-box Collection	SERVICE LEVEL			HAUL CHARGE
	Drop-box Hauling:			MER EVENT
	Temporary Non-compacted 10 - 40 Cubic Yard Drop-box			\$418.53
	Non-compacted 10 - 40 Cubic Yard Drop-box			\$402.61
	Compacted 10 - 40 Cubic Yard Drop-box			\$439.74
	Non-compacted Drop-box Rental & Delivery:	DAILY RENT	MONTHLY RENT	DELIVERY CHARGE
	Non-compacted 10 - 40 Cubic Yard Drop-box	\$7.43	\$132.21	\$181.78
	Miscellaneous Fees:			MER EVENT
	Additional Mileage Charge for Hauls to Other Sites (Per One Way Mile)			\$3.30
	Return Trip (Per Pickup)			\$16.52
	Stand-by Time (Per Minute)			\$1.65
	Drop-box Turn Around Charge			\$16.52
	Solid Drop-box Lid Charge (Per Month)			\$27.54
Misc. Services	SERVICE LEVEL			CONTRACT RATE
	Truck & Driver:			PER HOUR
	Rear/Side-load Packer & Driver			\$244.03
	Front-load Packer & Driver			\$244.03
	Drop-box Truck & Driver			\$244.03
	Additional Labor (Per Person)			\$105.45
	Event Services:			PER HOUR
	Delivery, Provision, Collection of a Set of 3 Carts (G, R, & C)			\$33.05
	Miscellaneous Fees:			PER HOUR
	Container Cleaning - Carts			\$11.01
	Container Cleaning - Detachable Containers			\$33.05
	Re-line with Compostable Cart Liner			\$5.50

EXHIBIT C
Recyclable Materials to be Collected

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

EXHIBIT D
Rate Modification Examples

The collection and disposal components of the Customer charges listed in Exhibit B will be adjusted separately, as appropriate. The collection component of Customer charges will be adjusted annually, pursuant to this Section and as described below. The disposal component of the Customer charges listed in Exhibit B will be adjusted only if the City receives notification from the County of a pending disposal fee adjustment, and will not become effective until the new disposal charges become effective and are actually charged to the Contractor. The disposal component of the Customer charge shall be updated to reflect King County disposal charges and fees intended to be collected from the Customer through the Contractor in a revenue-neutral manner. Formulas for both collection and disposal rate adjustments are provided as follows:

Collection Component Adjustment

The sum of the collection and Administrative Fee components listed in Exhibit B will be increased by the amount of the CPI change (Note that at contract inception the Administrative Fee is set at zero):

$$NCC = PCC \times [1 + (nCPI - oCPI) / oCPI]$$

Where NCC = The new collection and Administrative Fee components, adjusted for excise tax on the Administrative Fee, of the customer rate for a particular service level; and

 PCC = The previous collection and Administrative Fee components, adjusted for excise tax on the Administrative Fee, of the Customer rate for a particular service level; and

 nCPI = The most recent June CPI value; and

 oCPI = The CPI value used for the previous rate adjustment or, in the case of the first contract adjustment, the CPI value reported at the end of June of the previous year.

Disposal Component Adjustment

In the case of a disposal fee modification at County disposal facilities, the disposal component of each service level will be adjusted as follows:

$$\text{Step 1: } A = ODC \times (NTF / OTF)$$

$$\text{Step 2: } NDC = A + [(A - ODC) \times CETR]$$

Where A = Pre-excise tax adjusted disposal component; and

 ODC = The old disposal charge component of the customer rate for a particular service level;

NTF = The new disposal fee, dollars per ton; and
 OTF = The old disposal fee, dollars per ton; and
 NDC = The new disposal charge component of the customer rate for a particular service level; and
 CETR = Current excise tax rate (the current State excise tax rate; 0.0175 used for this example).

For example, using an initial one 32-gallon Cart rate of \$42.55 per month where \$33.72 is the collection component and \$8.83 is the disposal component as of April 1, 2024. The previous CPI is 100, the new CPI is 105, and the disposal fee will increase from \$184.87 to \$202.62 per ton starting on January 1, 2025. The State Excise Tax rate is 1.75% and the Administrative Fee remains at 10%. The January 2025 Customer charge for one 32-gallon Cart per week Residential Curbside service would be:

$$\text{New Collection Component} = \$33.72 \times [1 + (105-100)/100] = \mathbf{\$35.40}$$

New Disposal Component = Step A calculation (as on previous page):

$$[\$8.83 \times (\$202.62/\$184.87)] = \$9.67$$

Step B calculation (as on previous page):

$$\$9.67 + [(\$9.67 - \$8.83) \times 0.0175] = \mathbf{\$9.68}$$

Thus, the new Customer charge for one 32-gallon Cart per week Residential Curbside service will be the **\$35.40** collection component plus the **\$9.68** disposal component, equaling the new total retail rate of **\$45.07**.

EXHIBIT E

City of North Bend Identity Theft Prevention Program

I. PROGRAM ADOPTION

The City of North Bend developed this Identity Theft Prevention Program (“Program”) pursuant to the Federal Trade Commission’s Red Flags Rule (“Rule”), which implements Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003. This Program was developed with the oversight and approval of the City’s Finance Director. After consideration of the size and complexity of the City’s operations and account systems, and the nature and scope of the City’s activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program by the adoption of Ordinance No.1351 on the 21 day of April, 2009.

II. PROGRAM PURPOSE AND DEFINITIONS

A. Fulfilling Requirements of the Red Flags Rule. Under the Red Flags Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. The Program must contain reasonable policies and procedures to:

- Identify relevant red flags as defined in the Rule and this Program for new and existing covered accounts, and incorporate those red flags into the Program;
- Detect red flags that have been incorporated into the Program;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Update the Program periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft.

B. Red Flags Rule Definitions Used in this Program. For the purposes of this Program, the following definitions apply:

“Account” means a continuing relationship established by a person with a creditor to obtain a product or service for personal, family, household or business purposes.

“Covered account” means:

1. Any account the City offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft.

“Creditor” has the same meaning as defined in Section 701 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the City.

“Customer” means a person or business entity that has a covered account with the City.

“Financial institution” means a state or national bank, a state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other entity that holds a “transaction account” belonging to a customer.

“Identifying information” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including name, address, telephone number, social security number, date of birth, government passport number, employer or taxpayer identification number or unique electronic identification number.

“Identity theft” means fraud committed using the identifying information of another person.

“Red flag” means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

“Service provider” means a person or business entity that provides a service directly to the City relating to or in connection with a covered account.

III. IDENTIFICATION OF RED FLAGS

In order to identify relevant red flags, the City shall review and consider the types of covered accounts that it offers and maintains, the methods it provides to open covered accounts, the methods it provides to access its covered accounts, and its previous experiences with identity theft. The City identifies the following red flags, in each of the listed categories:

A. Notification and Warnings from Credit Reporting Agencies – Red Flags.

- Report of fraud accompanying a credit report;
- Notice or report from a credit agency of a credit freeze on a customer or applicant;
- Notice or report from a credit agency of an active duty alert for an applicant; and
- Indication from a credit report of activity that is inconsistent with a customer’s usual pattern or activity.

B. Suspicious Documents – Red Flags.

- Identification document or card that appears to be forged, altered or inauthentic;
- Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as a person’s signature on a check appears forged); and
- Application for service that appears to have been altered or forged.

C. Suspicious Personal Identifying Information – Red Flags.

- Identifying information presented that is inconsistent with other information the customer provides (such as inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a driver’s license);

- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;
- Failing to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- Identifying information which is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account – Red Flags.

- Change of address for an account followed by a request to change the account holder's name;
- Payments stop on an otherwise consistently up-to-date account;
- Account used in a way that is not consistent with prior use (such as very high activity);
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the City that a customer is not receiving mail sent by the City;
- Notice to the City that an account has unauthorized activity;
- Breach in the City's computer system security; and
- Unauthorized access to or use of customer account information.

E. Alerts from Others – Red Flag.

- Notice to the City from a customer, a victim of identity theft, a law enforcement authority or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

IV. DETECTING RED FLAGS

A. New Accounts. In order to detect any of the red flags identified above associated with the opening of a **new account**, City personnel will take the following steps to obtain and verify the identity of the person opening the account:

- Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- Verify the customer's identity (for instance, review a driver's license or other identification card);
- Review documentation showing the existence of a business entity; and
- Independently contact the customer.

B. Existing Accounts. In order to detect any of the red flags identified above for an **existing account**, City personnel will take the following steps to monitor transactions with an account:

- Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- Verify the validity of requests to change billing addresses; and
- Verify changes in banking information given for billing and payment purposes.

V. PREVENTING AND MITIGATING IDENTITY THEFT

In the event City personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

A. Prevent and Mitigate Identity Theft.

- Monitor a covered account for evidence of identity theft;
- Contact the customer with the covered account;
- Change any passwords or other security codes and devices that permit access to a covered account;
- Not open a new covered account;
- Close an existing covered account;
- Reopen a covered account with a new number;
- Not attempt to collect payment on a covered account;
- Notify the Finance Director for determination of the appropriate step(s) to take;
- Notify law enforcement; or
- Determine that no response is warranted under the particular circumstances.

B. Protect Customer Identifying Information. In order to further prevent the likelihood of identity theft occurring with respect to City accounts, the City shall take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Secure the City website but provide clear notice that the website is not secure;
- Undertake complete and secure destruction of paper documents and computer files containing customer information;
- Make office computers password protected and provide that computer screens lock after a set period of time;
- Keep offices clear of papers containing customer identifying information;
- Request only the last 4 digits of social security numbers (if any);
- Maintain computer virus protection up to date; and
- Require and keep only the kinds of customer information that are necessary for City purposes.

VI. PROGRAM ADMINISTRATION

A. Oversight. The Finance Director or other designated city employee at the level of senior management shall be responsible for developing, implementing, and updating the Program.

The Finance Director shall also be responsible for the Program administration, for appropriate training of City staff on the Program, for reviewing the annual staff report required under the Program, as well as any other staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, and considering periodic changes to the Program.

- B. Staff Training and Reports. City staff responsible for implementing the Program shall be trained either by or under the direction of the Finance Director in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Additionally, a compliance report shall be provided annually to the Finance Director. The annual compliance report shall at a minimum address the following:
 1. The effectiveness of the City's policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 2. Service provider arrangements;
 3. Significant incidents involving identity theft and the City's response; and
 4. Recommendations for material changes to the Program.
- C. Service Provider Arrangements. In the event the City engages a service provider to perform an activity in connection with one or more covered accounts, the City shall take the following steps to require that the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.
 - Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the Program and with all instructions and directives issued by the Finance Director relative to the Program; or
 - Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the service provider's identity theft prevention program and will take appropriate action to prevent and mitigate identity theft; and that the service providers agree to report promptly to the City in writing if the service provider in connection with a City covered account detects an incident of actual or attempted identity theft or is unable to resolve one or more red flags that the service provider detects in connection with a covered account.
- D. Customer Identifying Information and Public Disclosure. The identifying information of City customers with covered accounts shall be kept confidential and shall be exempt from public disclosure to the maximum extent authorized by law, including RCW 42.56.230(4). The City Council also finds and determines that public disclosure of the City's specific practices to identify, detect, prevent, and mitigate identify theft may compromise the effectiveness of such practices and hereby direct that, under the Program, knowledge of such specific practices shall be limited to the Finance Director and those City employees and service providers who need to be aware of such practices for the purpose of preventing identity theft.

VII. PROGRAM UPDATES

The Program will be periodically reviewed and updated to reflect changes in risks to customers and to the safety and soundness of the City from identity theft. The Finance Director shall at least annually review the annual compliance report and consider the City's experiences with identity theft, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the City maintains and changes in the City's business arrangements with other entities and service providers. After considering these factors, the Finance Director shall determine whether changes to the Program, including the listing of red flags, are warranted. If warranted, the Finance Director shall present the recommended changes to the City Council for review and approval.

EXHIBIT F

Contract Proposal Enhancements

The Garbage, Recyclables, & Compostables Collection Proposal submitted by Rabanco Ltd, dba Republic Services of Bellevue on September 15, 2022 in response to the City of North Bend Solid Waste Services RFP (hereafter “Proposal”) is attached to this Exhibit and is incorporated by reference into this Contract as if fully set forth herein. Highlights of the Proposal’s enhancements which are included in the Proposal but not in the preceding pages are listed below.

Let’s Go Electric Together (Page 21)

“Republic Services is proud of our proven ability to deploy all-electric vehicle collections fleets and operations support vehicles when our partner cities ask for them. We look forward to meeting with City of North Bend staff in 2023 to jointly determine the feasibility of implementing an EV fleet and accompanying infrastructure under the new contract. We have the first-in-in-the-nation track record for serving the City of Boise with an all EV fleet and are eager to deliver on the power and the promise of an all EV fleet with the City of North Bend. Republic Services has the national experience and local partnerships with the Bellevue-based companies Peterbilt and Puget Sound Energy to facilitate North Bend’s being the first city in the State of Washington to deploy an innovative, reliable EV fleet as soon as possible.”

North Bend Downtown Foundation Main Street Program Annual Sponsorship (Page 24)

“Republic Services appreciates our long history of service to the City of North Bend. We believe in the power of place making and the importance of supporting historic preservation and economic vitality in our communities. With the new contract, Republic Services would be honored to support the North Bend Downtown Foundation with an annual investment of \$10,000 to help establish and sustain a Washington State Main Street Program in the City of North Bend’s charming business district. Once established, we would be interested in working with staff to consider additional investments in the program through the B&O tax credit incentives associated with the Washington Department of Archaeology and Historic Preservation’s Main Street Program to further support economic development opportunities along West North Bend Way.”

Additionally, Republic Services committed to a pre-contract donation to North Bend Downtown Foundation in the amount of \$10,000 in 2022 for the Lighting Ceremony and \$30,000 on 2023 to Kick-off expansion of the Downtown Foundation.

Recycling Education Center Coming to MRF in early 2023 (Page 33)

“Republic Services is proud to be building a community gathering place and Recycling Education Center at our innovative, world class MRF. We broke ground last year and are eager to host virtual, in-person, and hybrid informative, educational sessions for a variety of audiences on the recycling system challenges and opportunities we face.”

Blue Print Waste Assessment (Page 42)

“Republic Services is committed to customer satisfaction and continual process improvements in our service delivery. Part of that work includes working individually with our commercial and multifamily residential customers, not just on contamination reduction, but to ensure their changing materials management and environmental responsibility needs are met. We proactively reach out to and meet with these customers to do on-site evaluations and overviews of service options for commercial,

multifamily, and industrial customers as our drivers note excessive or unused volume in the containers they service.

We summarize these site visits for customers in our Blueprint Waste Assessment tool that details and documents the specific needs and optimal service solutions that are most cost-effective and environmentally responsible for our customers who generate the greatest volumes of recyclables, organics, and garbage in North Bend. We've found our customers appreciate this customizable approach to their service needs."

Community Outreach Overview– In-Person, Virtually, and Hybrid (Page 47)

"Republic Services' customer education and outreach team is committed to our ongoing recycling and organics community education and customer training in North Bend. We are proud of our engagement history with residents and business owners through our presentations to civic, chamber, school, nonprofit, environmental, business, housing organizations, and homeowner associations (HOAs).

The Republic Services staff dedicated to this outreach include one Municipal Manager and a team of 4 recycling outreach specialists to conduct annual multi-family outreach calls, work with customers who have repeat contamination reports in their accounts, make recycling presentations to community, business, and school groups, conduct cart audits for internal, customer, and regional data collection efforts, organize litter clean up and recycling education events, and speak at environmental policy and advocacy meetings."

Customer Education Programs (Page 48)

Community Workshops

Distribution frequency: As needed

Republic Services staff attend and present at community workshops or meetings to promote and explain the city's collection and diversion programs as well as the importance of recycling right.

Public Service Announcement Posters for distribution at local, busy public venues (City Hall, Public Library, Post Office, etc.)

Distribution frequency: As needed

Posters may be made available to post at busy local venues to help educate the public on recycling best practices, community clean-ups, and other diversion initiatives."

2024-34 Solid Waste Collection Contract

City Council Meeting | November 15, 2022

Dan Marcinko

| North Bend Capital Projects & Grant Manager

Jeff Brown & Jeanette Jurgensen | Epicenter Services



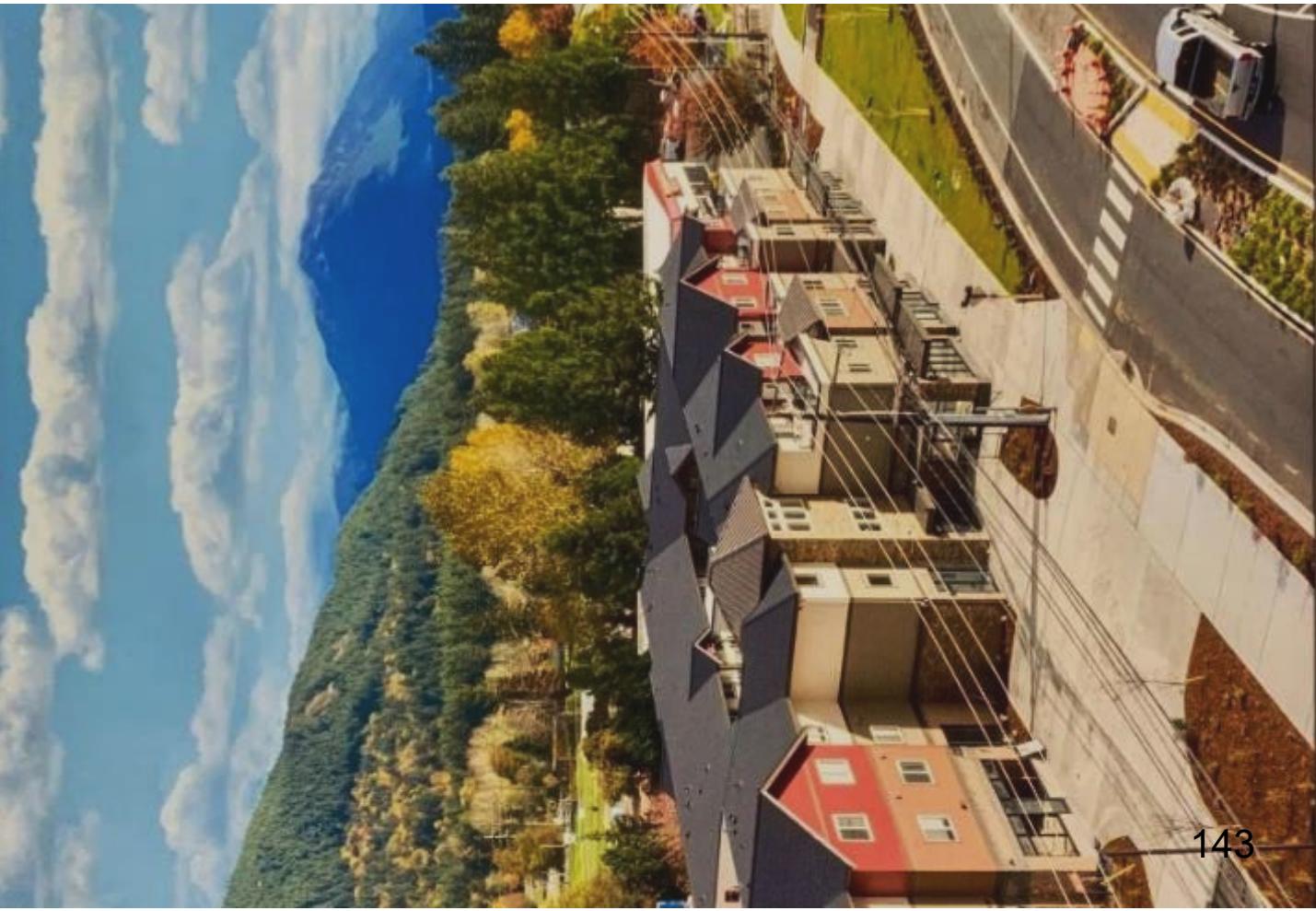
Purpose

Update Council on the procurement process for the
City's ten-year Solid Waste Collection Contract
Receive council direction to finalize the contract
with the highest rated proponent, Republic Services

Direction Needed: Contract Process

Council Packet November 15, 2022

- Accept staff-recommended highest rated proponent
- Accept solid waste collection contract as presented



Direction Needed: Administrative Fee

Council Packet November 15, 2022

- Accept increase of City Administrative Fee from 7.5% to 10%



Background



- City conducted competitive procurement process for solid waste in 2011, and awarded the contract to Republic
- Current 7-year contract with (2) 2-extensions expires March 31, 2024
- Epicenter Services assisted with both procurement processes



Request for Proposal

- Staff and Consultant developed and distributed RFP

- Republic Services, Recology, and Waste Management submitted proposals

- Proposals evaluated:

- Quantitative component: 60 points
 - Base rate proposal
- Qualitative components: 40 points
 - RFP document review, interviews, and reference checks

- Internal Citywide committee evaluated qualitative elements

Proposal Evaluation & Scoring

Council Packet November 15, 2022

Evaluation Element	Republic Services	Recology	Waste Management
Contract Compliance	5	10	8
Customer Service	12	10	12
Community Outreach & Education	8	10	8
Qualitative Score (40%)	25	30	28
Quantitative Score (60%)	60.0	50.2	46.7
TOTAL SCORE	85.0		74.7

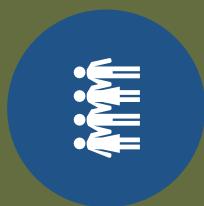
Republic's Qualitative Highlights



Partner on North Bend's
Downtown Foundation



Hundreds of trained
customer service agents



Commitment to equity
and diversity in staffing



Smartphone based apps
for easy access to
relevant information



Global leader in
sustainable initiatives



Robust community
education and outreach

New Contract Enhancements

Discounted bulky item collection

Electric support vehicles

Unlimited commercial recycling

Additional educational outreach

5% cap on inflation-related increases

Additional performance fees for unsatisfactory hauler performance

Increased service requirements during winter weather and labor disruptions



Service Disruption Recovery

INCLEMENT WEATHER

First Week Missed:

- Garbage, recycling, and compostables picked later the same week (if weather allows)

- Residents can drop off garbage, recycling, and compostables at drop-boxes around city

Second Week Missed:

- Single day: Garbage, recycling, and compostables picked up next day possible

- Multiple days: Double amount of garbage, recycling, and compostables picked up next service day

Communication:

- Hauler to contact customers by automated dialing, email, or text

LABOR DISRUPTION

First Week Missed:

- Garbage and recycling picked up on Saturday

Second Week Missed:

- Double amount of garbage, recycling, and compostables picked up next service day

- Residents can drop off garbage, recycling, and compostables at drop-boxes around city

Notes:

- Hauler to provide strike contingency plan 90 days before labor agreement expiration
- Bill credit if no makeup collection
- Performance fees paid to City

Rate Impacts



- All proposals had a significant rate increase from current rates
 - Current below-market rates due to competitive market during last procurement
 - Annual inflation not keeping up with costs
 - Instability in recycling markets and decrease in value of materials
 - Inflation uncertainty
 - Supply chain issues
- Proposed rates exclude alternatives, city administrative fees, and taxes

Garbage Rate Examples

Common Service Levels	Current Contract 2022 Rates	Current Contract 2023 Rates	New Contract Proposed Rates (2022 Dollars)
Residential 32 Gallon Cart	\$24.23	\$26.56	\$35.83
3 Cubic Yard Container	\$330.24	\$361.91	\$427.01
Compacted Drop-box	\$280.17	\$306.91	\$399.14
Estimated Annual Service Revenues	\$2.07 M	\$2.27 M	\$2.67 M

2024 rates will be adjusted by inflation and disposal cost increases
Administrative fee will be added to proposed rates



Disposal Rate Changes

- King County restructure garbage disposal fees 2024
- Shifting from a basic per-ton fee to a fixed fee plus per-ton fee
- Both current and new contract will require an amendment
- Contract amendments will be brought to Council next year

Downtown Foundation

Republic Services
will make annual
donations to North
Bend Downtown
Foundation:

2022: \$10,000

2023: \$30,000

2024 – 2034:
\$10,000 per year

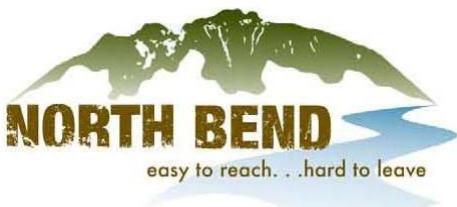
Recommendation

The Administration recommends that the City complete the development of the new ten-year contract with Republic Services and an increase in the City Administrative Fee for Council approval at the Nov. 15, 2022, Regular Business Meeting



Questions?





City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-139
Resolution Authorizing a Development Agreement with Telegraph Properties, LLC. for Bakes Marine	Department/Committee/Individual Mayor Rob McFarland City Administrator – David Miller City Attorney – Lisa Marshall City Clerk – Susie Oppedal Administrative Services – Lisa Escobar CED Director – Rebecca Deming Community & Economic Development-Jamie Burrell Finance – Richard Gould Public Works – Mark Rigos, P.E.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Cost Impact: N/A		
Fund Source: N/A		
Timeline: Immediate		
Attachments: Resolution, Exhibit A - Development Agreement, Planning Commission recommendation including public comments received		
SUMMARY STATEMENT:		
Bill Baker, on behalf of Telegraph Properties, LLC proposes to develop a Bakes Marine location in North Bend and will be providing associated required site improvements including parking, landscaping, street frontage improvements, and stormwater controls. The development is a mixture of indoor uses which includes the following: manufacturing of parts, shipping, administrative office, canvas production, and boat storage for approximately 50-75 boats.		
This property is in the Neighborhood Business Zone, in which Boat and Watercraft use is permitted as a commercial use. A Development Agreement (DA) would not be required adjacent and to the east of the site, which is zoned EP-2 and does not limit the ground floor commercial space. Telegraph Properties applied for a DA pursuant to North Bend Municipal Code 18.27 to authorize the size of the building to exceed what is allowed in the code for ground floor commercial tenant space.		
Approval of this amendment requires consideration by the Planning Commission following a public hearing, and approval by the City Council. The DA also includes a requirement that the applicant enter into a deferral improvement agreement and no protest for frontage improvement fees.		
The proposal was reviewed by the Planning Commission at their October 13, 2022 meeting, including a public hearing at this meeting. The principal benefit to the City from authorizing this project through the development agreement is the tax revenue to the City from the sales of boats and associated items. The project strongly supports North Bend's desire to provide a variety of recreational opportunities.		
Potential impacts from the proposal have been detailed within the Planning Commission Staff Report and Recommendation and the Development Agreement (attached).		
Two written comments were received with one of the written commenters also sharing his written concerns orally at the hearing.		
APPLICABLE BRAND GUIDELINES: Economic viability / balanced budget and variety of recreational opportunities.		
COMMITTEE REVIEW AND RECOMMENDATION: The Community & Economic Development Committee reviewed this item at their October 10, 2022 meeting and recommended approval and placement on the Main Agenda for discussion		

City Council Agenda Bill

RECOMMENDED ACTION: **MOTION** to approve AB22-139, a resolution authorizing a Developer Agreement with Telegraph Properties, LLC. for the Bakes Marine Development.

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
November 15, 2022		

RESOLUTION

**A RESOLUTION OF THE CITY OF NORTH BEND,
WASHINGTON, APPROVING A DEVELOPMENT
AGREEMENT BETWEEN THE CITY AND TELEGRAPH
PROPERTIES, LLC FOR BAKES MARINE BOAT AND
WATERCRAFT SALES AND AUTHORIZING THE MAYOR
TO EXECUTE THE SAME**

WHEREAS, Telegraph Properties, LLC (Developer) owns or controls King County Tax Parcel No.1323089065 (Property), located within the City; and

WHEREAS, the Developer proposes to develop a Bakes Marine Boat and Watercraft Sales establishment (Project) in the City of North Bend and will construct associated required site improvements including parking, landscaping, street frontage improvements, and stormwater controls; and

WHEREAS, the Project is a mixture of indoor uses including manufacturing of parts, shipping, administrative office, canvas production, and boat storage for approximately 50 to 75 boats; and

WHEREAS, the Property is located in the Neighborhood Business Zone, in which Boat and Watercraft use is permitted as a commercial use; and

WHEREAS, adjacent to the Property and to the East is the EP-2 zone which does not limit the ground floor commercial space; accordingly, the Project would be allowed without a Development Agreement (DA) if it were located adjacent to the Property in the EP-2 zone; and

WHEREAS, the Developer applied for a DA pursuant to North Bend Municipal Code 18.27 to seek approval for the size of the building to exceed what is allowed by the NBMC in the Neighborhood Business Zone for ground floor commercial tenant space; and

WHEREAS, the proposed DA also includes a requirement that the applicant enter into a deferral improvement agreement and no protest (DIA) for frontage improvement fees; and

WHEREAS, the proposed DA was reviewed by the Planning Commission at its October 13, 2022 meeting which included a public hearing on the proposed DA; and

WHEREAS, the principal benefit to the City in approving the proposed DA is the expected tax revenue to the City from the sales of boats and associated items; and

WHEREAS, the Washington State Legislature has authorized the execution of a DA between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a DA must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a DA must be approved by ordinance or resolution after a public hearing pursuant to RCW 36.70B.200 which was held on October 13, 2022;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The City hereby approves the Development Agreement between the City of North Bend and Telegraph Properties, LLC hereto as Exhibit A - Development Agreement, or in a substantially similar form, in a final form acceptable to the City Attorney, and authorizes the Mayor to execute the same.

PASSED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 15TH DAY OF NOVEMBER, 2022.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Ron McFarland, Mayor

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Effective:
Posted:

Susie Oppedal, City Clerk

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF NORTH BEND
AND TELEGRAPH PROPERTIES, LLC. FOR BAKES MARINE BOAT AND
WATERCRAFT SALES**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2022, by and between the City of North Bend, a municipal corporation of the State of Washington (“the City”) and Telegraph Properties, Inc., development applicant for a proposed Bakes Marine Boat and Watercraft Sales (“Bakes”), jointly (the “Parties”).

WHEREAS, Telegraph Properties, LLC applied for Site Plan Approval on July 5, 2022, for Parcel 1323089065 (collectively, the “Property”) for a 29,165 square foot building (with 2,500sf mezzanine) for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant; and

WHEREAS, along with a complete site plan application, Bakes provided a memorandum requesting an Agreement and a Site and Zoning Summary which is on file with the city. The legal description, site plan and initial design plans as shown in Exhibits A- C, attached hereto and incorporated herein; and

WHEREAS, Bakes is requesting an Agreement to allow for a deviation in the North Bend Municipal Code (NBMC) Chapter 18.34.070 North Bend Commercial and Industrial Design Guidelines A-3a. Ground Floor Commercial Tenant Space which allows for up to 15,000sf, and Bakes requests authorization to construct a building larger than 15,000 sf; and

WHEREAS, Bakes is also requesting a deviation from parking lot landscaping requirements in regard to landscape islands and design standards to position the building further from the street than is contemplated by the landscape requirements; both the parking lot and the landscaping deviations can be approved administratively but are included in the DA in order to provide a full record of the requested and approved deviations; and

WHEREAS, the North Bend City Council wishes to retain the greatest percentage of business and corresponding tax dollars within the city; and

WHEREAS, the North Bend City Council supports the brand statement to provide a variety of recreational opportunities; and

WHEREAS, the North Bend Municipal Code currently allows Boat and Watercraft Sales in the Neighborhood Business (NB) zone as a commercial use, and it is expected to bring employment and tax revenue which is a benefit to the city; and

WHEREAS, the adjacent lot to the east is zoned Employment Park II which does not limit commercial building size and a building larger than the Bakes building exists on the property line; and

WHEREAS, the Bakes development is consistent with North Bend's Comprehensive Plan goals and policies for this area as it provides for increased use of underperforming commercial property, employment opportunities, and economic development within the City; and

WHEREAS, Chapter 18.27 of the NBMC and state law authorize the execution of a development agreement between a local government and a person having ownership or control of real property within its jurisdiction (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must set forth the development standards and other provisions that shall apply to, govern, and vest the development, use and mitigation of the real property for the duration specified in the agreement (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be consistent with the applicable development regulations adopted by local government planning under chapter the Growth Management Act (RCW 36.70B.170(1)); and

WHEREAS, a development agreement must be approved by ordinance or resolution after a public hearing (RCW 36.70B.200); and

WHEREAS, a public hearing on this Agreement was held during a regular meeting of the Planning Commission on October 13, 2022; and

WHEREAS, the Bakes application will be reviewed for conformance with all other applicable City codes and standards including a State Environmental Policy Act (SEPA) Determination; and

WHEREAS, on _____, the City Council passed Resolution No. _____, approving and authorizing the Mayor to enter into this Agreement on behalf of the city.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

1. **The Project Site**. The Project Site consists of certain real property commonly known as:

Vacant Parcel No. 1323089065 located along SE North Bend Way, North Bend, Washington, as legally described in the attached **Exhibit A** (collectively "the Property").

2. **The Project**. The Project is the development and use of the Project Site as a Bakes Marine location in compliance with NBMC (except as otherwise approved by this Agreement) and compliance with all state regulations as now existing or hereafter amended. The Project consists of construction of a 29,165 square foot building for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant space, manufacturing of parts, canvas production and

constructing associated site improvements including parking, street frontage improvements, stormwater, and landscaping.

Project Exceptions:

- a. Approval of this Agreement allows the applicant to build a 29,165 square foot building, exceeding the maximum 15,000 square feet allowed by NBMC Design Guidelines for Ground Floor Commercial in the NB zone. The additional commercial space will allow the owner to meet the demands of the current market.
- b. Approval of this Agreement allows the Director to approve a deviation in the City's design standards A-3 Streetscape Design Required Street Façade Building Line (RBL). The standards require the street façade to be built out to no less than 50% of the RBL for the first 10 feet of the depth of the lot. The remaining 50% may not be set back more than 10 feet from the RBL. The Site Plan shows the office/sales area in the center of the parcel at the RBL, but the remainder of the frontage is either access/parking or has the building setback in order to allow for a flagpole with landscaping and path. See Exhibit B. below.
- c. Approval of this Agreement allows the Director to approve a deviation in the City's landscape standards which require intermediate landscape islands within parking areas. The Project removes some of the islands but overall meets the required landscaping requirement allowances for the site by consolidating landscaping elsewhere. This will allow for larger vehicle and trailer maneuvering space and promotes sustainable landscape design by reducing water consumption with less small or strip surfaces. No landscaping is required on the east side adjacent to the EP-2 property, but additional landscaping Type 1 standard per NBMC shall be provided on the west property line.
- d. Approval of this Agreement requires Bakes to enter into a deferral improvement agreement and no protest (DIA) for frontage improvement fees.

Public/City Benefit:

In exchange for allowing a larger building footprint for ground floor commercial use the city anticipates the following benefits:

- a. Investment in the property and compliance with current codes will stimulate economic development.
- b. The Project will provide 12 jobs and approximately \$57,000 net sales per year resulting in a tax benefit to the city.
- c. Impact Fees from the Project are currently estimated at \$243,435. This includes impacts for stormwater, fire and transportation impact fees. General facility charges will also be paid for sewer, along with permitting and review fees to the city. Exact amount to be verified at permit issuance based on final permit details.

3. Release of Liability and Hold Harmless. Bakes shall execute a release of liability and hold harmless agreement (hereafter "Release") in a form approved by the City

Attorney, for itself, its agents, officers, elected officials and employees, from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution or seizure of property, or liabilities of any kind that result from any arrest or prosecution for violations of federal or state law. Additionally, within the Release, Bakes shall indemnify and hold harmless the City of North Bend and its agents, officers, elected officials, and employees from any claims, damages, or injuries brought by adjacent property owners or other third parties due to operations at Bakes and for any claims brought by employees, agents, guests, or invitees for problems, injuries, damages, or liability of any kind that may arise out of the operation.

5. **Effective Date and Duration.** This Agreement shall commence upon the effective date of the City Council resolution approving this Agreement (the "Effective Date") and shall continue in force for a period of ten (10) years (the "Initial Term") unless extended or terminated as provided herein. Following the expiration of the Initial Term or extension thereof, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Bakes. Upon termination of this Agreement, Bakes and/or its successors under this Agreement shall have no protections as a legal non-conforming use pursuant to the City's non-conforming use provisions currently adopted within NBMC Chapter 18.30 or as the NBMC is hereafter amended.
6. **Project is a Private Undertaking.** It is agreed among the parties that the Project is a private development, and that the City has no interest therein except as authorized in the exercise of its governmental functions.
7. **Agreement Binding on Future Landowners.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Project Site to a person or entity ("Landowner") who, unless otherwise released by the City, shall be subject to the applicable provisions of this Agreement related to such portion of the Project Site. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the buyer, assignee, or transferee expressly assumes the obligations under this Agreement as provided herein. Notwithstanding, should construction not commence prior to a sale, assignment, or conveyance, any subsequent Landowner shall not be obligated to this Agreement.
8. **Planning and Development: Vesting.** Except as may otherwise specifically be provided in this Agreement, the Project shall be completed in accordance with all development and design standards of the North Bend Municipal Code, and all applicable environmental, building, and construction codes, and regulations contained therein, in effect at the time of submittal of complete permit applications.
9. **Permits Required.** Developer shall obtain all permits and pay all fees required under the NBMC or any other local, state, or federal law for this Project.

10. Further Discretionary Actions. Developer acknowledges that the City's land use regulations contemplate the exercise of further discretionary powers by the City. These powers include, but are not limited to, review of additional permit applications under SEPA. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying ordinances that govern the proposed uses of land, the density and intensity of use, and the design, improvement, construction standards and specifications applicable to the development of the Project.

11. Notice of Default/Opportunity to Cure/Dispute Resolution. In the event that either party, acting in good faith, believes the other party has violated the terms of this Agreement, the aggrieved party shall give the other party written notice of the alleged violation by sending a detailed written statement of the claimed breach. The other party shall have thirty (30) days from receipt of written notice in which to cure the claimed breach. This notice requirement is intended to facilitate a resolution by the parties of any dispute prior to the initiation of litigation or other contested proceedings. Upon notice of a claimed breach, the parties agree first to meet and confer in an attempt to resolve any dispute arising out of this Agreement. If the parties are unable to resolve the claimed breach, and prior to engaging in litigation to resolve any claimed breach or otherwise to enforce any provision of this Agreement, the parties shall first engage in non-binding mediation with the cost of the mediation to be split evenly.

12. Amendment: Effect of Agreement on Future Actions. This Agreement may be amended by mutual consent of the parties as provided in Section 25 herein, but only after a public hearing and other process required by RCW 36.70B. Nothing in this Agreement shall prevent the City Council from amending the Comprehensive Plan, Zoning Code, Official Zoning Map, or any other development regulations or ordinance as the City Council may deem necessary in the exercise of its legislative discretion as required by a serious threat to public health and safety.

13. Termination.

- a. This Agreement shall expire and be of no further force and effect if Developer does not construct the Project as described in this Agreement, or submits applications for development of the Project Site that are inconsistent with this Agreement as determined in the City's sole reasonable discretion; or
- b. This Agreement shall terminate on the earlier of (1) the expiration of the Initial Term identified in Section 5 above, or (2) the Subject Property having been fully developed and all of Developer's obligations in connection therewith satisfied as determined in the City's sole reasonable discretion. Upon termination of this Agreement under this Subsection 14(B), the City shall record a notice of such termination in a form satisfactory to the City Attorney; or
- c. This Agreement shall terminate upon Developer's abandonment of the Project. Developer shall be deemed to have abandoned the Project if the

Project has not begun construction within 2 years of the Effective Date noted above.

14. **Effect of Termination on Developer Obligations.** Termination of this Agreement shall not affect any of Developer's obligations to comply with (a) the City Comprehensive Plan or any applicable zoning code(s), subdivision maps or other land use entitlements approved with respect to the Project; (b) any conditions or restrictions specified in this Agreement, and such obligations shall survive termination of this Agreement; or (c) obligations to pay assessments, liens, fees, or taxes, unless the termination or abandonment of the Project nullifies such obligations.
15. **Effect of Termination on City.** Upon termination of this Agreement, the Agreement shall have no further force or effect except as expressly provided herein.
16. **Covenants Running with the Land.** The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits shall run with the land, and the benefits and burdens shall bind and inure to the benefit of the parties. Bakes and every Landowner, purchaser, assignee or transferee of an interest in the Project Site, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of Bakes contained in this Agreement, as such duties and obligations pertain to the portion of the Project Site sold, assigned or transferred to it. A copy of the fully executed Agreement shall be recorded in accordance with Section 26 herein.
17. **Specific Performance.** The parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and that the parties are entitled to compel specific performance of all material terms of this Agreement by any party in default hereof.
18. **Third Party Legal Challenge.** In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner to challenge this Agreement or any provision herein, Bakes shall defend, indemnify, and hold the City, its officers, officials, employees, and volunteers harmless from any and all such claims, injuries, damages, losses or suits including attorney fees.
19. **No Presumption Against Drafter.** Bakes represents that it has been advised to seek legal advice and counsel from its attorney concerning the legal consequences of this Agreement, that it has carefully read the foregoing Agreement, and knows the contents thereof, and signs the same as its own free act, and that it fully understands and voluntarily accepts the terms and conditions of this Agreement. Both parties have had the opportunity to have this Agreement reviewed and revised by legal counsel, and the parties agree that no presumption or rule that ambiguity shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

20. Notices. Notices, demands, or correspondence to the City and Bakes shall be sufficiently given if dispatched by prepaid first-class mail to the following addresses:

TO CITY: City Administrator
City of North Bend
920 SE Cedar Falls Way
North Bend, WA 98045

TO: Bill Baker
Telegraph Properties, LLC
6424 East Lake Sammamish Parkway SE
Issaquah, WA 98029

Notice to the City shall be to the attention of both the City Administrator and the City Attorney. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notice. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

21. **Assignment.** This Agreement shall be binding and inure to the benefit of the parties. Bakes shall not assign its rights under this Agreement without the written consent of the City. Any assignment of this Agreement will be at the sole discretion of the City.
22. **Governing Law and Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Venue for any action shall lie in King County Superior Court.
23. **No Attorneys' Fees.** In the event of any litigation or dispute resolution process between the parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of costs or attorneys' fees or expert witness fees.
24. **Severability.** The provisions of this Agreement are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Agreement, or the validity of its application to other persons or circumstances.
25. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Changes made in accordance with Section 12 herein shall be incorporated by written amendments or addenda signed by both parties and made.
26. **Recording.** Bakes shall record an executed copy of this Agreement with the King County Auditor, pursuant to RCW 36.70B.190, no later than fourteen (14) days after

the Effective Date and shall provide the City with a conformed copy of the recorded document within thirty (30) days of the Effective Date.

27. Reservation. Pursuant to Washington Administrative Code 365-196-845, the City hereby reserves the right to impose new or different regulations upon Bakes to the extent required by a serious threat to public health and safety.

By their signatures below, the persons executing this Agreement each represent and warrant that they have full power and authority to bind their respective organizations, and that such organizations have full power and actual authority to enter into this Agreement and to carry out all actions required of them by this Agreement.

CITY OF NORTH BEND

Bill Baker

By: _____
Rob McFarland, Mayor

By: _____
Printed Name: Bill Baker

Title: Owner

Attest/Authenticated:

Susie Oppedal, City Clerk

Approved As To Form:

Lisa Marshall, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2022, did personally appear before me, the undersigned Notary Public in and for the State of Washington, _____, who is known to me or produced satisfactory evidence that s/he is the person that executed the foregoing Development Agreement, and acknowledged that s/he signed the Agreement as his or her free and voluntary act for the uses and purposes mentioned therein.

GIVEN under my hand and official seal this ____ day of _____, 2020.

Print name: _____

NOTARY PUBLIC in and for the State of Washington, residing at _____

Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2022, did personally appear before me, the undersigned Notary Public in and for the State of Washington, _____, who is known to me or produced satisfactory evidence that s/he is the person that executed the foregoing Development Agreement, and acknowledged that s/he signed the Agreement as his or her free and voluntary act for the uses and purposes mentioned therein.

GIVEN under my hand and official seal this ____ day of _____, 2020.

Print name: _____

NOTARY PUBLIC in and for the State of Washington, residing at _____

Commission expires: _____

EXHIBIT A:

LEGAL DESCRIPTION:

PARCEL A:

THE NORTHWESTERLY 60 FEET OF THE SOUTHEASTERLY 310 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2, AS MEASURED ALONG SAID MARGIN AND AT RIGHT ANGLES THERETO;
EXCEPT THAT PORTION THEREOF LYING NORTHERLY OF A LINE, DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE CENTERLINE OF STATE HIGHWAY NO. 2; THENCE NORTH $63^{\circ}47'13''$ WEST ALONG SAID CENTERLINE A DISTANCE OF 733.84 FEET; THENCE AT RIGHT ANGLES, NORTH $26^{\circ}12'47''$ EAST 616 FEET, MORE OR LESS, TO THE CENTER LINE OF A COUNTY ROAD KNOWN AS SURVEY NO. 1892 AND THE BEGINNING OF SAID LINE;
THENCE SOUTH $63^{\circ}47'13''$ EAST TO THE EAST LINE OF SAID SUBDIVISION AND THE TERMINUS OF SAID LINE;
AND EXCEPT THE SOUTHWESTERLY 120 FEET THEREOF.

PARCEL B:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION AND THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2; THENCE NORTHWESTERLY ALONG SAID MARGIN 250 FEET TO THE BEGINNING OF SAID LINE; THENCE AT RIGHT ANGLES NORTH $26^{\circ}12'47''$ EAST TO THE EAST LINE OF SAID SUBDIVISION AND THE TERMINUS OF SAID LINE;
EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS:
THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE NORTHERLY MARGIN OF STATE HIGHWAY NO. 2; THENCE NORTHWESTERLY ALONG SAID MARGIN 250 FEET;
THENCE AT RIGHT ANGLES NORTHEASTERLY 150 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY 178.85 FEET, MORE OR LESS, TO THE EAST LINE OF THE SUBDIVISION; THENCE SOUTHERLY ALONG SAID LINE 166.02 FEET, MORE OR LESS, TO THE POINT OF BEGINNING;
(ALSO KNOWN AS LOT B OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L93L0081 RECORDED UNDER KING COUNTY RECORDING NO. 9307139005)

PARCEL C:

THE NORTHWESTERLY 60 FEET OF THE SOUTHEASTERLY 310 FEET OF THE SOUTHWESTERLY 120 FEET OF THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING NORTHERLY OF STATE ROAD NO. 2, AS MEASURED ALONG THE NORTHERLY MARGIN OF SAID ROAD AND AT RIGHT ANGLES THERETO.

PARCEL D:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:
BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID SUBDIVISION WITH THE NORTHERLY LINE OF THE SUNSET HIGHWAY; THENCE NORTHWESTERLY ALONG THE HIGHWAY 250 FEET;
THENCE AT RIGHT ANGLES NORTHEASTERLY 150 FEET; THENCE AT RIGHT ANGLES SOUTHEASTERLY 178.85 FEET, MORE OR LESS, TO THE EAST LINE OF THE SUBDIVISION; THENCE SOUTHERLY ALONG SAID LINE 166.02 FEET, MORE OR LESS TO THE POINT OF BEGINNING.
(ALSO KNOWN AS LOT A OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L93L0081 RECORDED UNDER KING COUNTY RECORDING NO. 9307139005.)

EXHIBIT B: Site Plan



EXHIBIT C: Initial Design Elevations



VIEW LOOKING NORTHWEST





Staff Report and Planning Commission Recommendation Bakes Development Agreement

Meeting Date: October 13, 2022

Proponent:

Bill Baker
Telegraph Properties, LLC
6424 East Lake Sammamish Parkway SE
Issaquah, WA 98029

Staff Recommendation: A Motion to recommend City Council approve the Development Agreement with Telegraph Properties, LLC for Bakes Marine Boat and Watercraft Sales

I. Summary of Development Agreement:

Telegraph Properties, LLC on behalf of Bill Baker and Paul Gregoire of Bakes Marine Consulting ("Bakes") has approached the City of North Bend inquiring about developing a Bakes Marine Sales and Service Center on a vacant piece of property just east of the Mt Si Pub on Parcel 1323089065 along SE North Bend Way. The parcel is in the Neighborhood Business (NB) zone.

On July 22, 2022, the project was issued a Notice of Application for a 29,165 square foot building (with 2,500sf mezzanine) for Boat and Watercraft Sales for Bakes Marine. The operation will be comprised of warehouse and office tenant.

Bakes is requesting a Development Agreement ("DA") to allow for a deviation in the North Bend Municipal Code (NBMC) Chapter 18.34.070 North Bend Commercial and Industrial Design Guidelines A-3a. Approval of the proposed Agreement allows the applicant to build a 29,165 square foot building (with 2,500sf mezzanine), exceeding the maximum 15,000 square feet allowed by NBMC Design Guidelines. Bakes is also requesting the following minor deviations which can be approved administratively but are included in the DA to provide a full record of the requested and approved deviations:

- A deviation in the City's design standards A-3 Streetscape Design Required Street Façade Building Line (RBL). The standards require the street façade to be built out to no less than 50% of the RBL for the first 10 feet of the depth of the lot. The remaining 50% may not be set back more than 10 feet from the RBL. The Site Plan shows the office/sales area in the center of the parcel at the RBL, but the remainder of the frontage is either access/parking or has the building setback to allow for a flagpole with landscaping and path.
- A deviation in the City's landscape standards which require intermediate landscape islands within parking areas. The Project removes some of the islands but overall meets the required landscaping requirement allowances for the site by consolidating landscaping

elsewhere. This will allow for larger vehicle and trailer maneuvering space and promotes sustainable landscape design by reducing water consumption with less small or strip surfaces.

The purpose of DAs is clarified under 18.27.020, and in summary, allows for establishing standards and requirements for a specific project that may differ from portions of the City's development regulations, subject to approval by the City Council. A DA enabling a specific user to gain relief from standard code regulations has an advantage over amending the City's zoning regulations to enable additional relief in the city in that it provides a more limited "trial basis" for considering each applicant individually and provides more control as well as the ability to impose requirements that go above and beyond what is otherwise required in the municipal code and state law.

There are benefits and potential impacts with any deviation from code, which are evaluated below. The principal benefit to the City is the tax revenue, employment, and property investment to the City from having Bakes develop.

II. Planning Commission and Community and Economic Development (CED) Council Committee Review

The Planning Commission will provide their review and recommendation to the City Council following their consideration of public comment at a public hearing, as required per NBMC 18.27.025.

The CED Council Committee will review the proposal for a Development Agreement at a future meeting following Planning Commission recommendation.

III. Consistency with North Bend Municipal Code (NBMC) Chapter 18.27, Development Agreements

As stated in Chapter 18.27.020, the purposes for development agreements include creating certainty to applicants, consolidating numerous issues involved in complex development projects into a single controlling instrument, maximize efficient use of resources at the least economic cost to the public, and to strengthen the public planning process. The proposed DA, including this process for review and public hearing before the Planning Commission, achieves those purposes.

The Applicant has met the application requirements for a development agreement detailed in NBMC 18.27.030. The only deviations from the code are those detailed in the DA, primarily to build a larger building than what is otherwise allowed by code and to have site plan deviations for landscaping and front building setback build to line. By approving the larger building some additional design standard requirements such a % volume for a single mass would be exceeded and need to be addressed with further rounds of review. Preliminary estimates show the warehouse building comprises around 80% of the volume, and the design standards limit to 75% maximum.

IV. Consistency with the North Bend Comprehensive Plan

Pursuant to NBMC 18.27.020(C), a Development Agreement should further the objectives of the Comprehensive Plan. The North Bend Comprehensive Plan does not speak in either support or opposition to the specific requests related to building size, parking lot landscaping or build to line but does speak the scale of new commercial development in the Edgewick Neighborhood. The Comprehensive Plan states: *Attention to the most appropriate zoning classifications and land uses is also a significant issue, as the North Bend Vision Plan clearly articulates the City's desire to manage new commercial development with attention to the scale and intensity suitable for a small city. Employment-generating uses should be given preference over larger-scale warehousing and storage uses.*

Per the Comprehensive Plan the Neighborhood Business zone is a commercial zoning district intended to allow a variety of small-scale retail centers for shops providing goods to serve the everyday needs of the surrounding population, where mixed-use development can be encouraged. The Design Standards for the E/W Interchange area provide additional planning and land use guidance to ensure a well-coordinated mix of office, employment park, research, and industrial, and light manufacturing uses, and to coordinate vehicular circulation and site design to minimize adverse impacts to adjacent residential areas and other commercial uses.

Per LU - Goal 4: Focus future employment growth in designated economic opportunity areas including the downtown, the South Fork interchange and employment park area and the East North Bend Way to Edgewick corridor. Policy LU – 4.2 further Promotes pedestrian-scale development by utilizing shared driveways or existing roads and providing pedestrian-level amenities. The development will connect to a new sidewalk along the frontage and the building entrance will front to the street per Design Standards. The applicant has also provided an economic model which estimates 12 employees will work at this location with first year sales forecasted at 5Million.

The proposal could also be considered to support certain policies within the Comprehensive Plan relating to Economic Development, including the following:

- Economic Development Goal 2: Create public and private opportunities for economic development that encourage and enable redevelopment of underperforming commercial sites.
- Capital Facilities Element Policy 4.9: Coordinate the City's land use and public works planning activities with an ongoing program of long-range financial planning to conserve fiscal resources available to implement the Capital Facilities Element.

The proposal is consistent with Economic Development Goal 2 in that it provides an opportunity for a new retail use within an existing underperforming commercial site. This furthers the intent of Goal 2 by providing a private opportunity for economic development that will benefit the City's finances.

The proposal is consistent Capital Facilities Element Policy 4.9 in that it enables a use that will generate revenue to the City. See additional information on economic benefits under that section below.

V. Impacts of Proposal

NBMC 20.08.070 and .080 requires that applications for municipal code amendments be evaluated for their environmental, economic, and cultural impacts, as well as impacts to surrounding properties. While a development agreement is not a code amendment, the impacts of such a development agreement should likewise be considered. These impacts are evaluated below.

- 1) Environmental Impacts.** No environmental impacts are anticipated from approving the proposed Development Agreement. The proposal locates the business on an existing mostly cleared, flat lot with no critical areas present. The project proposes typical site improvements associated with a commercial development including parking, landscaping, stormwater controls, etc., which will be reviewed for consistency with the City's development and design regulations. Trees will be removed, and mitigation will be required per NBMC 19.10.
- 2) Economic Impacts.** North Bend would likely receive in the range of \$57,000 per year based on tax revenue from the development. This revenue would provide a benefit for the city in funding essential services such as police and fire, and in maintaining levels of service for streets, parks, and

other infrastructure that serves its citizens. Additionally, Bakes Marine will pay Impact Fees and General Facility charges which are one-time fees due at permit issuance.

3) Traffic Impacts. The applicant provided a traffic impact analysis as a part of their development application since their use exceeds 10 pm-peak hour trips, and mitigation measures would be imposed if warranted under the City's concurrency requirements. The TIA will include analysis for intersections that experience 10+ project peak hour trips. This would just include 468th Ave SE at SE North Bend Way and I-90 WB Ramps, which have already been analyzed thoroughly by the "468th Ave SE Middle Fork" corridor analysis last year. Since the Bakes Marine project only added ~12 trips at most, that's within normal day-to-day traffic fluctuations but will be further analyzed in detail during project review.

4) Impacts to Adjacent properties.

Potential impacts from the use at this location focus on its location on SE North Bend Way, in relatively proximity to nearby residential developments to the west. Bakes is a commercial use with impacts such as noise, light, and traffic. However, this property is zoned Neighborhood Business with Employment Park Industrial zone to the east which would have similar impacts. To the west per NBMC 18.13.050 the Neighborhood Business residential overlay district (NB MPOD) requires a 15-foot Type 1 landscape transition area, pursuant to Chapter 18.18 NBMC Table 1, shall be installed between the commercial properties abutting SE North Bend Way and the NB MPOD behind.

This applies to only a portion of the west property line and is included in a comment to the applicant. The purpose is to reduce incompatible uses and provide consistency with the character and build-out of existing lots in this area, continuing to allow single-family detached and cottage housing types within this portion of the NB zone. This area is unique as 455th Avenue SE and SE 141st Street remain private, which could limit commercial development.

The City's development regulations addressing landscaping and lighting would minimize visual impacts from the proposed development.

The proposal would have a positive impact in terms of new supporting infrastructure required for the development (new sidewalks, street trees, and landscaping, etc.), improving the developed condition of the surrounding neighborhood.

5) Social/cultural concerns. No social/cultural impacts are anticipated from approving the proposed Development Agreement.

VI. Planning Commission Review Findings:

The Planning Commission reviewed the Development Agreement on October 13 meeting and held a Public Hearing on the proposed matter. Any written public comment will be attached to the record (Exhibit 2).

VII. Summary Findings:

1. Pursuant to NBMC 18.27.025 A, a public hearing notice for the Public Hearing was published and mailed to properties within 300 feet, relevant agencies, and parties of record consistent with RCW 36.70B.200 and City Code Chapter 20.03.
2. A State Environmental Policy Act Determination will be issued for the project itself, not the DA.
3. The proposed DA is consistent with the intent and purpose of Chapter 18.27, Development Agreements, and the North Bend Comprehensive Plan.
4. The proposed DA is consistent with state law on development agreements per RCW 36.70B.170 through 36.70B.210 and has been approved in form by the City Attorney.

VIII. Requested Planning Commission Analysis:

The Planning Commission was asked to evaluate the draft DA together with the information provided in this staff report against public comment received at the hearing, and determine whether to recommend that the City Council approve the DA. The Planning Commission should consider whether, on balance, the DA is in the best interest of the City of North Bend, resulting in a net benefit to the community.

IX. Staff Recommendation:

Approving a Development Agreement to allow Boat and Watercraft Sales building of 31,665 square feet on Parcel 1323089065 will provide a benefit to the city from the added tax revenue received from allowing the use. The applicant's request for deviations for building setback and parking lot landscaping can be mitigated through compliance with complimentary sections of those codes and adherence to all other code criteria.

X. Planning Commission Recommendation

Following consideration of the staff report, draft Development Agreement, and public comment received at the public hearing, the Planning Commission recommends that the City Council *approve* the Development Agreement, subject to allowance for removal of the eastern 5-foot landscaping next to the adjacent building and access road in replacement for Type 1 to be required on the west side adjacent to homes in the NB zone. A motion providing this recommendation was passed 4:1 at the October 10, 2022 Planning Commission Meeting.

Attachments:

1. Draft Development Agreement
2. Written comments received- (2)

From: [Don Fleming](#)
To: [Jamie Burrell](#)
Subject: Bakes DA Hearing
Date: Saturday, October 8, 2022 8:27:37 AM

You don't often get email from flemdl@hotmail.com. [Learn why this is important](#)

I am in favor of the 'Bakes Marine and Watercraft Sales' proposed development. Having the new business developed in subject location will be an asset to North Bend and benefit all in the area. I am unable to attend the 11/13 Hearing.

Regards,
Don Fleming

Mayor McFarland
City Commissioners
920 SE Cedar Falls Way
North Bend, WA
98045

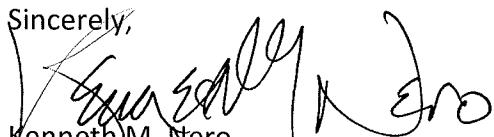
Re: Bakes Development

Dear Concerned,

I have a few questions for you with regard to the recommendation to approve a deviation for Bakes Marine Sales and Service Center.

- 1) Why is this building deviation being allowed?
- 2) How were the building code specifications determined?
- 3) Why is the word "deviation" used to describe an increase of 111%, only a lawyer would use the word deviation? I am willing to bet that the average North Bend resident would assume that requesting a deviation would increase the size of the building 25% or less, not 111%.
- 4) How much will their water consumption increase (based on the development increase) and has an allowance been made for that in our sham WSP?
- 5) What is the North Bend Building Code Specification for water use for the allowable 15,000 sqft?
- 6) What is the expected traffic increase for the building if they adhere to the specification and how much will the increase (if approved) in the development increase the traffic flow?
- 7) What is the nature of the traffic, LTL trucks and trailers to deliver boats? How many deliveries are planned per week?
- 8) Isn't a "deviation" like this something that residents should vote on, like the \$ 22 million dollar swim center that has been voted down twice?
- 9) What's the point of having an approved Building Code Specification if it's NOT GOING TO BE USED???

Sincerely,



Kenneth M. Nero
1161 Forster Blvd. SW
North Bend, Washington
98045



City Council Agenda Bill

SUBJECT:	Agenda Date: November 15, 2022	AB22-140
Motion Authorizing a Contract with Mountains to Sound Greenway Trust for Landscaping and Restoration Services	Department/Committee/Individual Mayor Rob McFarland City Administrator – David Miller City Attorney – Mike Kenyon/Lisa Marshall City Clerk – Susie Oppedal Administrative Services – Lisa Escobar Comm. & Economic Development – Rebecca Deming Finance – Richard Gould Public Works – Mark Rigos	
Cost Impact: N/A		X
Fund Source: Grant Funds, Mitigation Funds, and Impact Fees. (NTE \$300,000.00).		
Timeline: January 1, 2023-December 31, 2024		
Attachments: Professional Services Agreement		
SUMMARY STATEMENT:		
The City has been working with the Mountains to Sound Greenway Trust for landscape projects for many years. The City usually brings individual contacts to the City Council for each project, however, to expedite the use of these services and avoid having to go through the selection process from a Small Works Roster every time City staff has a project, consultants can be placed under contract for on-call services. Their services would be called upon only when their services are needed. No expense is incurred unless a specific task and associated fee is negotiated with the relevant consultant.		
Proposed is a Professional Services Agreement for services to the City for landscaping projects which have a fixed amount not to exceed of \$300,000 and expires on December 31, 2024. At that point a new contract will return to Council coinciding with the budget cycle. A vast majority of the project funding usually comes from grant funds, mitigation funds, impact fees, or grant matching funds.		
City staff recommends moving forward with Mountains to Sound Greenway Trust for Landscaping Services.		
APPLICABLE BRAND GUIDELINES: Sustainably Managed Growth		
COMMITTEE REVIEW AND RECOMMENDATION: The Community and Economic Development Committee reviewed this agenda item at their October 18, 2022 meeting and recommended approval and placement on the Main Agenda.		
RECOMMENDED ACTION: MOTION to approve AB22-140, authorizing the Mayor to sign a Professional Services Agreement with Mountains to Sound Greenway Trust, in an amount not to exceed \$300,000, in a form and content acceptable to the City Attorney.		
RECORD OF COUNCIL ACTION		
Meeting Date	Action	Vote
November 15, 2022		

**PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN THE CITY OF NORTH BEND
AND MOUNTAINS TO SOUND GREENWAY TRUST**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2022, by and between the City of North Bend, a municipal corporation of the State of Washington (“City”) and Mountains to Sound Greenway Trust, a non-profit corporation (“Consultant”) in consideration of the mutual benefits and conditions contained herein.

WHEREAS, City has determined a need to have certain services performed for its citizens; and

WHEREAS, Consultant is in the business of performing such services, which are described below; and

NOW, THEREFORE, the parties hereby agree as follows:

1. **Scope of Services.** Consultant shall perform those services described on **Exhibit A** attached hereto, which is incorporated by this reference as if fully set forth. All such services will be rendered with the degree of skill and care exercised by members of Consultant’s profession practicing under similar circumstances at the same time and in the same or similar locale, and in compliance with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith.
2. **Compensation and Method of Payment.** Consultant will invoice City monthly based upon the fee schedule set forth in **Exhibit B** attached hereto, which is incorporated by this reference as if fully set forth. Consultant shall be paid a total amount not to exceed THREE HUNDRED THOUSAND DOLLARS AND 00/100 (\$300,000) without written modification of this Agreement signed by City. City shall pay Consultant for services rendered under this Agreement within ten (10) days after City Council voucher approval. Consultant agrees to complete and return the attached **Exhibit C** (Taxpayer Identification Number) to City prior to or along with the first invoice. Beginning on January 1, 2024, Consultant may adjust its rates reflected on Exhibit B of this Agreement by up to but not to exceed five percent (5%) annually, and City shall pay Consultant such invoiced adjusted rate, for the term of this Agreement.
3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing October 1, 2022 and ending December 31, 2024 unless earlier terminated in accordance with Section 11 herein or extended by written amendment in accordance with Section 14 herein.
4. **Ownership, Form, and Use of Documents.** All documents, drawings, specifications, and other materials produced by Consultant in connection with the services rendered under this Agreement shall be the property of City whether the project for which they are made is executed or not. Except as otherwise stated in Exhibit A, Consultant shall provide to City all final documents, reports, or studies in printed and electronic form. Unless otherwise directed in writing by City, all final documents, reports, or studies shall be provided to City in both a PDF and Word format. Where applicable, all Complete Plan Set Drawings shall include all Specifications and shall be submitted to City in the most updated version of AutoCAD in an unrestricted format and in accordance with City Code. Consultant shall not be responsible for any use or modifications of said documents, drawings, specifications, or other materials by City or its representatives for any purpose other than the project specified in this Agreement.

5. **Independent Contractor.** City and Consultant agree that Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create an employer-employee relationship between the parties hereto. Neither Consultant nor any of Consultant's employees shall be entitled, by virtue of the services provided under this Agreement, to any benefits afforded to City employees. City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers' compensation, or for otherwise assuming the duties of an employer with respect to Consultant or Consultant's employees.
6. **Indemnification.** Consultant shall indemnify, defend, and hold harmless City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of City.

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

7. **Insurance.** Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by this Agreement shall not be construed to limit Consultant's liability to the coverage provided by such insurance, or otherwise limit City's recourse to any remedy available at law or in equity.
 - A. **Scope of Required Insurance.** Consultant shall maintain insurance of the types and coverage described below:
 1. **Automobile liability insurance**, with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident, covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.
 2. **Commercial general liability insurance**, written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate, which shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent Consultants and personal injury and advertising injury. City shall be named as an additional insured under Consultant's Commercial General Liability insurance policy with respect to the work performed for City, using an additional insured endorsement at least as broad as ISO CG 20 26.
 3. **Professional liability insurance** appropriate to Consultant's profession, written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

4. **Workers' compensation coverage** as required by the Industrial Insurance laws of the State of Washington.
- B. **Additional Insurance Provisions.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Consultant's automobile liability and commercial general liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respects City. Any insurance, self-insurance, or self-insured pool coverage maintained by City shall be excess of Consultant's insurance and shall not contribute with it. Consultant shall provide City with written notice of any policy cancellation within two (2) business days of Consultant's receipt of such notice.
- C. **Certificates of Insurance.** Within fifteen (15) days of the execution of this Agreement, Consultant shall deliver original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance coverage required by this Section 7.
- D. **Failure to Maintain Insurance.** Consultant's failure to maintain insurance as required shall constitute a material breach of this Agreement, upon which City may, after giving five (5) business days' notice to Consultant to correct the breach, immediately terminate this Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to City on demand, or at the sole discretion of City, offset against funds due Consultant from City.
- E. **Full Availability of Consultant Limits.** If Consultant maintains higher insurance limits than the minimums shown above, City shall be insured for the full available limits of Commercial General and excess or umbrella liability maintained by Consultant, irrespective of whether such limits maintained by Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to City evidences limits of liability lower than those maintained by Consultant.

8. Recordkeeping and “Red Flag” Rules.

- A. Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. Consultant shall also maintain such other records as may be deemed necessary by City to ensure proper accounting of all funds contributed by City to the performance of this Agreement and of the parties' compliance with this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by City.
- C. Consultant acknowledges receipt of and agrees to adhere to City's Identity Theft Prevention Program (“Red Flag” rules), a copy of which is attached hereto as **Exhibit D**.

9. Taxes, Licenses and Permits.

- A. Consultant shall procure and maintain a City business license in accordance with Chapter 5.04 NBMC, *Business Licenses and Business and Occupation Tax*, prior to beginning work under this

Agreement. Consultant assumes responsibility for and ensures that all contractors, subcontractors and suppliers shall also obtain a City business license.

- B. Consultant acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, including taxes and fees assessed pursuant to Chapters 5.04 and 5.05 NBMC, and Consultant agrees to comply with all applicable laws regarding the reporting of income and maintenance of records, and with all other requirements and obligations imposed pursuant to applicable law. If City does not receive, or is assessed, made liable, or responsible in any manner for such charges or taxes, Consultant shall reimburse and hold City harmless from such costs, including attorneys' fees. Consultant shall also require all contractors, subcontractors and suppliers to pay all charges and taxes in accordance with this Section 9.
- C. In the event Consultant fails to pay any taxes, assessments, penalties, or fees imposed by City or any other governmental body, then Consultant authorizes City to deduct and withhold and/or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. This provision shall, at a minimum, apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from Consultant's total compensation.

10. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the term of this Agreement. City shall have the right to conduct an audit of Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of Consultant.

11. Termination. This Agreement may be terminated by City at any time upon thirty (30) days' written notice; provided, that if Consultant's insurance coverage is canceled for any reason, City shall have the right to terminate this Agreement as provided in Subsection 7(D) herein.

12. Discrimination Prohibited. Consultant shall not discriminate against any employee, applicant for employment, or any person seeking Consultant's services under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

13. Assignment and Subcontract. Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of City.

14. Entire Agreement; Modification. This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Proposed changes which are mutually agreed upon shall be incorporated by written amendments or addenda signed by both parties.

15. Notices. Notices required hereunder shall be delivered via certified U.S. mail to the addresses below:

To the City of North Bend: David Miller, City Administrator
 City of North Bend
 920 SE Cedar Falls Way
 North Bend, Washington 98045
 Phone: (425) 888-1211

To Consultant:

Dan Hintz
Restoration Projects Manager
Mountains to Sound Greenway Trust
2701 First Avenue, Suite 240
Seattle, WA 98121
Phone: 206-735-1027

16. Security. Consultant will protect confidential information provided by City pursuant to this Agreement by adhering to policies governing physical, electronic, and managerial safeguards against unauthorized access to an unauthorized disclosure of confidential information. Security standards shall meet or exceed Washington State Office of the Chief Information Officer Standard No. 141.10. Only authorized employees of Consultant shall have access to City's confidential information, and only for the purposes specified in this Agreement. Consultant shall, within 24 hours of discovery, report to City any use, access to or disclosure of City's confidential information not previously authorized by City.

17. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly and exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its costs of suit, including attorneys' fees and expert witness fees.

BY THEIR SIGNATURES BELOW, the authorized agents of the parties enter into this Agreement as of the day and year first written above.

CITY OF NORTH BEND

By: _____
Rob McFarland, Mayor

Mountains to Sound Greenway Trust

By: _____
Jon Hoekstra, Executive Director

Attest/Authenticated:

Susie Oppedal, City Clerk

Approved As To Form:

Lisa Marshall, City Attorney

EXHIBIT A:
SCOPE OF SERVICES

Consultant shall furnish and perform services including, but not limited to, the description of work and deliverable items indicated below.

1. **Project Title:** Ecosystem Stewardship & Restoration Services
2. **Supervising Staff.** Consultant's main point of contact at City will be Dan Hintz, Restoration Projects Manager, who can be reached at 206-735-1027 or dan.hintz@mtsgreenway.org, or such other personnel as City may designate from time to time.
3. **Description of Work.**

Overview

For more than 25 years, the Mountains to Sound Greenway Trust has worked with federal, state, county, and municipal agencies on stewardship of public lands. The Greenway Trust has extensive experience in ecological restoration, volunteer coordination, and recreational trail project construction and maintenance. This includes noxious weed control, native plant installation, ecological monitoring, and construction and maintenance of trails and recreation facilities. This work is completed by a mix of Greenway Trust staff, volunteers, and contractors.

Noxious Weed Control

The Greenway Trust has extensive experience in identification, survey, treatment, and control of problem plant species in King County. Typical projects range from addressing monocultures of weeds such as blackberry and ivy, knotweed survey and control along stream systems, and working with agencies to survey and control regulated and listed weeds on trails, roads, and restoration sites.

Methods for noxious weed control include manual (i.e., hand tools), mechanical (i.e., brush cutter or heavy machinery by subcontract), and chemical (i.e., backpack sprayers, cut-stump, EZ-Ject lance). The Greenway Trust follows the best management practices (BMP's) outlined by the King County Noxious Weed Control Program for all methods. The Greenway Trust holds a commercial applicator's license (#92169) with an aquatic endorsement issued by the Washington State Department of Agriculture.

Native Plant Installation

The Greenway Trust has nearly three decades of experience in native plant installation, including the development and implementation of planting plans. Greenway Trust staff will procure plant material (including plants from the Greenway Trust managed nursery) for riparian, wetland, upland, and landscape projects. Greenway Trust staff have experience installing all kinds of plant material, including potted plants, ball and burlap, emergent plugs, bareroots, live stakes, and seeding.

Greenway Trust staff and crew technicians have strong knowledge of the conditions needed for specific species to succeed on project sites and use this information to develop planting plans and approaches that are appropriate for specific site conditions. In addition to plant installation, Greenway Trust staff and technicians can also install exclusion fencing, woods chips, and perform other plant establishment tasks as needed for sites to thrive.

Ecological Monitoring

Greenway Trust staff collect ecological monitoring data and can author monitoring reports for a variety of projects, including wetland mitigation, critical area work, carbon credit development, climate adaptation, and other voluntary monitoring efforts for vegetation management projects. Typical monitoring protocols include the establishment of monitoring plots (using the line intercept method or taking estimates of cover within defined areas), taking of photo points to track year to year progress, and analysis of species diversity, plant survival and percent cover for native and nonnative species.

Recreation Projects Construction and Maintenance

The Greenway Trust has also has over two decades of experience managing recreation projects. The Greenway Trust uses a combination of seasonal trail crew positions, volunteers, and work of professional contractors, all overseen by experienced full-time recreation program staff. The Greenway Trust regularly works with federal, state, county, and municipal agencies on new trail design and construction, trail rehabilitation, trailhead installation and expansion (including informational signage, interpretive signage, vault toilets, paved and unpaved parking areas), day use area creation and improvements (picnic sites, fire rings, bear-proof garbage disposal units, water access sites), routine and triage trail maintenance (brush clearance, logout of downed trees, drainage and water management), trail structures repair and installation (including bridges, puncheon, boardwalk, rock walls and steps, gravel surfacing) and natural area restoration and protection (through use of trail design, reroutes, and natural materials to discourage activities).

Volunteer Coordination

The Greenway Trust has been hosting environmental stewardship and trail maintenance volunteer events for nearly three decades. These projects have involved thousands of volunteers and tens of thousands of volunteer hours contributed to improving public lands. These events not only provide an opportunity to educate community members on a range of natural resource and land management issues, but also allows local residents to give back to their local parks and natural resources.

Additionally, stewardship events and volunteer involvement can help extend City resources by allowing public participation in on-going volunteer-driven restoration projects, creating a pool of local volunteers committed to local projects. As a part of volunteer services, the Greenway Trust provides all volunteer recruitment, tracking, and registration. The Greenway Trust coordinates tools, materials, safety equipment, first aid supplies, portable toilets (as necessary) and all other logistics to run successful events. The Greenway Trust ensures all volunteers sign approved waiver forms releasing the City from any liability.

EXHIBIT B:
COMPENSATION

All services requested by the City of North Bend will be paid for on a time and material basis. As an alternative, a scope of services and fee for these services will be mutually agreed upon between the City and the Consultant, and will require a written supplement (e.g. Task Order). All services will be performed in accordance with the following staff positions and hourly billing rates according to the Billing Rate Schedule.

Description	Rate	Units
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Professional Services

Restoration Projects Manager	\$78.00	Hours
Recreation Projects Manager	\$80.00	Hours
Restoration Crew Coordinator	\$60.00	Hours
Volunteer Coordinator	\$60.00	Hours
Restoration Technicians/Volunteer Assistants	\$42.00	Hours
Stewardship Program Administrator	\$65.00	Hours
Stewardship Program Manager	\$89.00	Hours
Field Programs Director	\$110.00	Hours

Materials

Plants (from Greenway Trust nursery)	\$6.00	Each
Plants from other suppliers		At cost
Misc. Supplies (ex. Portable Bathrooms, exclusion fencing, wood chips)		At cost
	Sales Tax	9.0%

Matching Contributions

Volunteers	\$19.00	Hour
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EXHIBIT C:
TAXPAYER IDENTIFICATION NUMBER

CITY OF NORTH BEND
920 SE Cedar Falls Way
North Bend, WA 98045
Phone: (425) 888-1211
FAX: (425) 831-6200

In order for you to receive reimbursement from the City of North Bend, we must have either a Taxpayer Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the City of North Bend before or along the submittal of the first billing voucher.

Please check the appropriate category:

Corporation Partnership Government Agency
 Individual/Sole Proprietor Other (Non-Profit)

TIN#: ____ - ____ - ____ - ____ - ____

SS#: ____ - ____ - ____ - ____ - ____

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

EXHIBIT D:

**CITY OF NORTH BEND
IDENTITY THEFT PREVENTION PROGRAM**

I. PROGRAM ADOPTION

The City of North Bend developed this Identity Theft Prevention Program (“Program”) pursuant to the Federal Trade Commission’s Red Flags Rule (“Rule”), which implements Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003. This Program was developed with the oversight and approval of the City’s Finance Director. After consideration of the size and complexity of the City’s operations and account systems, and the nature and scope of the City’s activities, the City Council determined that this Program was appropriate for the City, and therefore approved this Program by the adoption of Ordinance No.1351 on the 21 day of April, 2009.

II. PROGRAM PURPOSE AND DEFINITIONS

A. Fulfilling Requirements of the Red Flags Rule. Under the Red Flags Rule, every financial institution and creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. The Program must contain reasonable policies and procedures to:

- Identify relevant red flags as defined in the Rule and this Program for new and existing covered accounts, and incorporate those red flags into the Program;
- Detect red flags that have been incorporated into the Program;
- Respond appropriately to any red flags that are detected to prevent and mitigate identity theft; and
- Update the Program periodically to reflect changes in risks to customers or to the safety and soundness of the City from identity theft.

B. Red Flags Rule Definitions Used in this Program. For the purposes of this Program, the following definitions apply:

“Account” means a continuing relationship established by a person with a creditor to obtain a product or service for personal, family, household or business purposes.

“Covered account” means:

1. Any account the City offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
2. Any other account the City offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the City from identity theft.

“Creditor” has the same meaning as defined in Section 701 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a, and includes a person or entity that arranges for the extension, renewal or continuation of credit, including the City.

“Customer” means a person or business entity that has a covered account with the City.

“Financial institution” means a state or national bank, a state or federal savings and loan association, a mutual savings bank, a state or federal credit union, or any other entity that holds a “transaction account” belonging to a customer.

“Identifying information” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including name, address, telephone number, social security number, date of birth, government passport number, employer or taxpayer identification number or unique electronic identification number.

“Identity theft” means fraud committed using the identifying information of another person.

“Red flag” means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

“Service provider” means a person or business entity that provides a service directly to the City relating to or in connection with a covered account.

III. IDENTIFICATION OF RED FLAGS

In order to identify relevant red flags, the City shall review and consider the types of covered accounts that it offers and maintains, the methods it provides to open covered accounts, the methods it provides to access its covered accounts, and its previous experiences with identity theft. The City identifies the following red flags, in each of the listed categories:

A. Notification and Warnings from Credit Reporting Agencies – Red Flags.

- Report of fraud accompanying a credit report;
- Notice or report from a credit agency of a credit freeze on a customer or applicant;
- Notice or report from a credit agency of an active duty alert for an applicant; and
- Indication from a credit report of activity that is inconsistent with a customer’s usual pattern or activity.

B. Suspicious Documents – Red Flags.

- Identification document or card that appears to be forged, altered or inauthentic;
- Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
- Other document with information that is not consistent with existing customer information (such as a person’s signature on a check appears forged); and
- Application for service that appears to have been altered or forged.

C. Suspicious Personal Identifying Information – Red Flags.

- Identifying information presented that is inconsistent with other information the customer provides (such as inconsistent birth dates);
- Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a driver’s license);
- Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- Social security number presented that is the same as one given by another customer;
- An address or phone number presented that is the same as that of another person;

- Failing to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- Identifying information which is not consistent with the information that is on file for the customer.

D. Suspicious Account Activity or Unusual Use of Account – Red Flags.

- Change of address for an account followed by a request to change the account holder's name;
- Payments stop on an otherwise consistently up-to-date account;
- Account used in a way that is not consistent with prior use (such as very high activity);
- Mail sent to the account holder is repeatedly returned as undeliverable;
- Notice to the City that a customer is not receiving mail sent by the City;
- Notice to the City that an account has unauthorized activity;
- Breach in the City's computer system security; and
- Unauthorized access to or use of customer account information.

E. Alerts from Others – Red Flag.

- Notice to the City from a customer, a victim of identity theft, a law enforcement authority or other person that it has opened or is maintaining a fraudulent account for a person engaged in identity theft.

IV. DETECTING RED FLAGS

A. New Accounts. In order to detect any of the red flags identified above associated with the opening of a **new account**, City personnel will take the following steps to obtain and verify the identity of the person opening the account:

- Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- Verify the customer's identity (for instance, review a driver's license or other identification card);
- Review documentation showing the existence of a business entity; and
- Independently contact the customer.

B. Existing Accounts. In order to detect any of the red flags identified above for an **existing account**, City personnel will take the following steps to monitor transactions with an account:

- Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- Verify the validity of requests to change billing addresses; and
- Verify changes in banking information given for billing and payment purposes.

V. PREVENTING AND MITIGATING IDENTITY THEFT

In the event City personnel detect any identified red flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the red flag:

A. Prevent and Mitigate Identity Theft.

- Monitor a covered account for evidence of identity theft;
- Contact the customer with the covered account;

- Change any passwords or other security codes and devices that permit access to a covered account;
- Not open a new covered account;
- Close an existing covered account;
- Reopen a covered account with a new number;
- Not attempt to collect payment on a covered account;
- Notify the Finance Director for determination of the appropriate step(s) to take;
- Notify law enforcement; or
- Determine that no response is warranted under the particular circumstances.

B. Protect Customer Identifying Information. In order to further prevent the likelihood of identity theft occurring with respect to City accounts, the City shall take the following steps with respect to its internal operating procedures to protect customer identifying information:

- Secure the City website but provide clear notice that the website is not secure;
- Undertake complete and secure destruction of paper documents and computer files containing customer information;
- Make office computers password protected and provide that computer screens lock after a set period of time;
- Keep offices clear of papers containing customer identifying information;
- Request only the last 4 digits of social security numbers (if any);
- Maintain computer virus protection up to date; and
- Require and keep only the kinds of customer information that are necessary for City purposes.

VI. PROGRAM ADMINISTRATION

A. Oversight. The Finance Director or other designated city employee at the level of senior management shall be responsible for developing, implementing, and updating the Program.

The Finance Director shall also be responsible for the Program administration, for appropriate training of City staff on the Program, for reviewing the annual staff report required under the Program, as well as any other staff reports regarding the detection of red flags and the steps for preventing and mitigating identity theft, determining which steps of prevention and mitigation should be taken in particular circumstances, and considering periodic changes to the Program.

B. Staff Training and Reports. City staff responsible for implementing the Program shall be trained either by or under the direction of the Finance Director in the detection of red flags, and the responsive steps to be taken when a red flag is detected. Additionally, a compliance report shall be provided annually to the Finance Director. The annual compliance report shall at a minimum address the following:

1. The effectiveness of the City's policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
2. Service provider arrangements;
3. Significant incidents involving identity theft and the City's response; and
4. Recommendations for material changes to the Program.

C. Service Provider Arrangements. In the event the City engages a service provider to perform an activity in connection with one or more covered accounts, the City shall take the following steps to require that

the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the Program and with all instructions and directives issued by the Finance Director relative to the Program; or
- Require, by contract, that service providers acknowledge receipt and review of the Program and agree to perform their activities with respect to City covered accounts in compliance with the terms and conditions of the service provider's identity theft prevention program and will take appropriate action to prevent and mitigate identity theft; and that the service providers agree to report promptly to the City in writing if the service provider in connection with a City covered account detects an incident of actual or attempted identity theft or is unable to resolve one or more red flags that the service provider detects in connection with a covered account.

D. Customer Identifying Information and Public Disclosure. The identifying information of City customers with covered accounts shall be kept confidential and shall be exempt from public disclosure to the maximum extent authorized by law, including RCW 42.56.230(4). The City Council also finds and determines that public disclosure of the City's specific practices to identify, detect, prevent, and mitigate identify theft may compromise the effectiveness of such practices and hereby direct that, under the Program, knowledge of such specific practices shall be limited to the Finance Director and those City employees and service providers who need to be aware of such practices for the purpose of preventing identity theft.

VII. PROGRAM UPDATES

The Program will be periodically reviewed and updated to reflect changes in risks to customers and to the safety and soundness of the City from identity theft. The Finance Director shall at least annually review the annual compliance report and consider the City's experiences with identity theft, changes in identity theft methods, changes in identity theft detection and prevention methods, changes in types of accounts the City maintains and changes in the City's business arrangements with other entities and service providers. After considering these factors, the Finance Director shall determine whether changes to the Program, including the listing of red flags, are warranted. If warranted, the Finance Director shall present the recommended changes to the City Council for review and approval.