

## **ENVIRONMENT COMMITTEE AGENDA**

**Thursday, January 10, 2013 – North Conference Room**

**5:30 PM – 6:30PM**

1. Approval of August 9, 2012 minutes
2. ILA Regarding King County Landfills
3. SWM Rate Structure Study Update

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## **MINUTES - ENVIRONMENTAL COUNCIL COMMITTEE MEETING 08/09/2012**

The meeting was called to order @ 5:33 PM, Thursday, August 9, 2012, in the North Conference Room @ 21630 11<sup>th</sup> Avenue South, Des Moines with the following in attendance:

### **Council Members**

Bob Sheckler, Chair  
Melissa Musser  
Dan Caldwell

### **Guests**

Citizen Sheri Verburg

### **City Staff**

Tony Piasecki, City Manager  
Grant Fredricks, Director PB&PW  
Loren Reinhold, Environment/Utilities Engr.  
Peggy Volin, Admin Asst.  
Laura Techico, Planner/NPDES Coordinator

### **AGENDA:**

1. Approve minutes of June 14, 2012
2. Midway Sewer District Treatment Plant – treatment standard
3. New NPDES Permit (2013-2018)
4. Draft 2013 SWM CIP
5. Project Updates
6. Rate Study Update

### **MEETING:**

1. Minutes of June 14, 2012, were unanimously approved.
2. Midway Sewer District Treatment Plant: Loren shared an e-mail he prepared in response to a letter request received from a citizen regarding upgrading Midway Sewer from a Level 2 to a Level 3 Treatment Center.

Loren responded that currently Midway Sewer is a secondary treatment facility. It goes through a primary mechanical treatment, then a secondary biological treatment and is disinfected before being released to the Puget Sound via the deep outfall. Level 3 is considered tertiary treatment and is generally applied to releases to streams and rivers, not to a large body of water such as the Sound. Midway is anticipating that their next NPDES permit from Ecology will require additional removal of nutrients (nitrogen and phosphorous) but not the requirement of tertiary treatment per the 2008 Comprehensive Plan.

Their 2008 Comprehensive Plan states that the Treatment Plant must meet the Clean Water Act (NPDES Permit) and that no major upgrades are recommended during the plan period of 2008-2014. Any upgrades to the system would likely occur during the next plan period for 2014-2020.

3. New NPDES Permit 2013 – 2018: Laura Techico provided an in-depth memo regarding the NPDES Program. It updated the Committee on the newly released Western Washington Phase II Municipal Stormwater 2013-2018 Permit, the changes from the existing permit, and the potential impacts to the City of Des Moines.

She explained the background of the National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit program as being one of several requirements in the federal Clean Water Act intended to protect water quality and reduce the discharge of pollutants to the maximum

extent practicable. The Washington State Dept of Ecology implements these rules through municipal stormwater permits. Phase II stormwater permit regulations cover stormwater discharges in urbanized areas that serve populations of less than 100,000.

She also covered the rest of the permits which consist of Low Impact Development; Watershed-Scale Stormwater Planning; Inspections of Stormwater, Treatment and Flow-Control Facilities; One Acre Threshold; and Monitoring permits.

She concluded by saying the additions to the Western Washington Phase II Municipal Stormwater Permit will result in the necessity for significant increases in staff time, resources and expertise in order to comply with the additional requirements. It was left open to discussion if it would be more cost effective to hire out the monitoring of permits.

Similar to what happened for the 2007-2012 permit, a policy decision for Council will be whether to join a coalition of cities to appeal the conditions of the new permit.

4. Draft 2013 SWM CIP: Loren provided the draft budget for 2013-2018 and went over line items explaining the upcoming projects and their projected budgets.
5. Project Updates: Loren briefed the Committee on the status of the 223<sup>rd</sup> Culvert Replacement Project (substantial complete) and the Redondo Heights Culvert Replacement project (scheduled to commence August 20).
6. Rate Study Update: A contract in the amount of \$41,590 with Financial Consulting Solutions Group is ready for signature by the City Manager pending the second hearing and adoption of the budget amendment scheduled for August 30. The rate study is anticipated to take at least 6 months with any rate changes effective January 1, 2014.

Adjourned @ 6:13 PM

Submitted by: Peggy Volin, Administrative Assistant

**2013 Environment Committee  
Work Program  
(December 12, 2012)**

**January 10, 2013**

Draft 2013 Work Program  
ILA regarding King County Landfills  
SWM Rate Structure Study Update

**February 14, 2013**

SWM Rate Structure Study Consultant Briefing

**March 14, 2013**

*Southwest Suburban Sewer District Comprehensive Sewer System Plan – Tentative  
City Works Program – SWM Maintenance Update/Demonstration*

**April 11, 2013**

SWM Rate Structure Study Consultant Briefing

**May 9, 2013**

Project Updates  
NPDES Program Update

**June 13, 2013**

*Lakehaven Utility District Comprehensive Water System Plan - Tentative  
Greenroads Certification Process: Discussion of Environmental Stewardship on S. 216<sup>th</sup>  
Street – Segment 2 (18<sup>th</sup> Ave. S. to 24<sup>th</sup> Ave. S.)*

**July 11, 2013**

No meeting scheduled.

**August 8, 2013**

*Pipe Replacement Program: video survey results - Tentative*

**September 12, 2013**

SWM Capital Improvement Budget  
Project Updates

**October 10, 2013**

Budget Discussions

**November 14, 2013**

Comprehensive SWM Plan

**December 12, 2013**

No meeting scheduled.

**2013 Environment Committee  
Work Program  
(December 12, 2012)**

**January 10, 2013**

Draft 2013 Work Program  
ILA regarding King County Landfills  
SWM Rate Structure Study Update

**February 14, 2013**

SWM Rate Structure Study Consultant Briefing

**March 14, 2013**

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Project Updates  
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**November 14, 2013**

Comprehensive SWM Plan

**December 12, 2013**

No meeting scheduled.

## Laura Techico

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**From:** McLaughlin, Pat [Pat.McLaughlin@kingcounty.gov]  
**Sent:** Friday, December 28, 2012 5:39 PM  
**To:** Bob Sheckler  
**Cc:** Laura Techico; Tony Piasecki; 'deanna@suburbancities.org'; 'doreen@suburbancities.org'; Carlson, Diane; True, Christie; Burns, Bob; Kiernan, Kevin; Yates, Diane  
**Subject:** Transmittal of Amended and Restated Solid Waste Interlocal Agreement  
**Attachments:** DesMoines\_ILA\_non-binding\_statement\_of\_interest.pdf; DesMoines\_ILA\_TransmittalLtr\_12.28.12.pdf

Dear Mayor Sheckler:

With this email I am transmitting to you the *Amended and Restated Solid Waste Interlocal Agreement* for your review and approval. As you may know, King County and the Metropolitan Solid Waste Management Advisory Committee have been working together over the past two years to extend the *Solid Waste Interlocal Agreement of 1988*, which your City has signed. After intensive negotiations, a team of City and County representatives has reached agreement on a new ILA that will foster cooperation in our regional solid waste system. This agreement extends the original ILA by 12.5 years, from June 2028 through December 2040, which will keep rates lower by allowing for longer-term bonding for capital projects.

The new ILA includes several significant enhancements over the original ILA. It deals much more effectively with liability, establishing a protocol for payment of Environmental Liabilities, if and when they arise, including insurance and reserves. The intent to protect both City and County general funds from Environmental Liabilities to the greatest extent feasible is explicit. Other improvements over the original ILA include:

- Commitment to the continued involvement of the Metropolitan Solid Waste Advisory Committee (MSWAC)
- An expanded role for Cities in system planning, including long-term disposal alternatives and in establishing financial policies
- A dispute resolution process, which includes non-binding mediation
- An acknowledgment that solid waste facilities are regional facilities and host cities and neighboring cities may receive mitigation for impacts

Also included with this transmittal is a non-binding statement of interest. We are requesting this non-binding statement from each City as to whether you are interested in signing the new ILA. To accomplish this, we are asking that you complete the attached form, indicating which option best represents your City's position at this time and email it to me by close of business January 31, 2013. Again, this is non-binding, but will assist the County in planning.

In order to develop, in collaboration with MSWAC, financial policies that will affect the next rate study, the County needs each City to act on the ILA by April 30, 2013. Briefing materials to assist you in making a decision can be found here:

- 1) [Amending and Restating the Interlocal Agreement of 1988, an overview](#)
- 2) [Solid Waste Interlocal Agreement between King County and Cities, a PowerPoint presentation, including notes](#) – (this links you to the main folder, click on the file to access)
- 3) [ILA Term Sheet](#)
- 4) [Solid Waste Governance](#)

- 5) Effect of Different Bond Terms on Fees
- 6) System Map
- 7) Frequently Asked Questions
- 8) Redline Comparison of the 1988 Interlocal Agreement with Amended and Restated Solid Waste Interlocal Agreement
- 9) Amended and Restated Solid Waste Interlocal Agreement

Upon request, we would be happy to provide briefings to you, your City Council, or staff. If you have any questions or would like to schedule a briefing, please call or email me at 206-296-4385 or [pat.mclaughlin@kingcounty.gov](mailto:pat.mclaughlin@kingcounty.gov).

Sincerely,

Pat D. McLaughlin  
Division Director  
King County Solid Waste Division  
206-296-4385  
[pat.mclaughlin@kingcounty.gov](mailto:pat.mclaughlin@kingcounty.gov)



**King County**

Department of Natural Resources and Parks  
Solid Waste Division

December 28, 2012

TO: The Honorable Bob Sheckler, Mayor  
City of Des Moines

RE: Request for Non-Binding Statement of Interest in signing an Amended and Restated Solid Waste Interlocal Agreement by January 31, 2013

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We are requesting a non-binding statement from each City as to whether you are interested in signing the *Amended and Restated Solid Waste Interlocal Agreement*. To accomplish this, we are asking that a representative of the City complete the form below, indicating which option best reflects the City's position at this time, and email it to me by close of business January 31, 2013. Again, this is non-binding, but will assist the County in planning.

Please respond by completing the information below:

City of Des Moines Non-Binding Statement of Interest with Respect to Entering into the Amended and Restated Solid Waste Interlocal Agreement.

☐ It is **likely** that my City will sign the Amended and Restated Solid Waste Interlocal Agreement.

☐ It is **not likely** that my City will sign the Amended and Restated Solid Waste Interlocal Agreement.

My Name/Title: \_\_\_\_\_ Date: \_\_\_\_\_

If you have any questions about the attached materials, please call or email me at 206-296-4385 or [pat.mclaughlin@kingcounty.gov](mailto:pat.mclaughlin@kingcounty.gov).

cc: Tony Piasaki, City Manager, City of Des Moines  
Deanna Dawson, Executive Director, Suburban Cities Association  
Diane Carlson, Director of Regional Initiatives, King County Executive Office  
Christie True, Director, Department of Natural Resources & Parks (DNRP)  
Kevin Kiernan, Assistant Division Director, Solid Waste Division (SWD), DNRP  
Diane Yates, Intergovernmental Liaison, SWD, DNRP



## King County

### Solid Waste Division

Department of Natural Resources and Parks

King Street Center

201 South Jackson Street, Suite 701

Seattle, WA 98104-3855

**206-296-6542** Fax 206-296-0197

TTY Relay: 711

December 28, 2012

The Honorable Bob Sheckler  
Mayor, City of Des Moines  
21630 11th Avenue S.  
Des Moines, WA 98198

Dear Mayor Sheckler:

With this letter I am transmitting to you the *Amended and Restated Solid Waste Interlocal Agreement* (new ILA) for your review and approval. As you may know, King County (County) and the Metropolitan Solid Waste Management Advisory Committee have been working together over the past two years to extend the *Solid Waste Interlocal Agreement of 1988* (original ILA), which your City has signed. After intensive negotiations, a team of City and County representatives has reached agreement on a new ILA that will foster cooperation in our regional solid waste system. This agreement extends the original ILA by 12.5 years, from June 2028 through December 2040, which will keep rates lower by allowing for longer-term bonding for capital projects.

The new ILA includes several significant enhancements over the original ILA. It deals much more effectively with liability, establishing a protocol for payment of Environmental Liabilities, if and when they arise, including insurance and reserves. The intent to protect both City and County general funds from Environmental Liabilities to the greatest extent feasible is explicit. Other improvements over the original ILA include:

- Commitment to the continued involvement of the Metropolitan Solid Waste Advisory Committee (MSWAC)
- An expanded role for Cities in system planning, including long-term disposal alternatives and in establishing financial policies
- A dispute resolution process, which includes non-binding mediation
- An acknowledgment that solid waste facilities are regional facilities and host cities and neighboring cities may receive mitigation for impacts

Also included with this transmittal is a non-binding statement of interest. We are requesting this non-binding statement from each City as to whether you are interested in signing the new ILA.

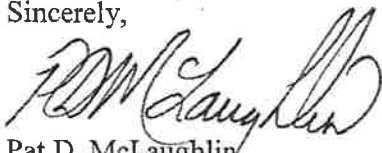
The Honorable Bob Sheckler  
December 28, 2012  
Page 2

To accomplish this, we are asking that you complete the attached form, indicating which option best represents your City's position at this time and email it to me by close of business January 31, 2013. Again, this is non-binding, but will assist the County in planning.

In order to develop, in collaboration with MSWAC, financial policies that will affect the next rate study, the County needs each City to act on the ILA by April 30, 2013. Briefing materials to assist you in making a decision can be found here [City ILA Briefing Package](#). Upon request, we would be happy to provide briefings to you, your City Council, or staff.

If you have any questions or would like to schedule a briefing, please call or email me at 206-296-4385 or [pat.mclaughlin@kingcounty.gov](mailto:pat.mclaughlin@kingcounty.gov).

Sincerely,



Pat D. McLaughlin  
Division Director

Enclosure

cc: Tony Piasaki, City Manager, City of Des Moines  
Laura Techico, Recycling & Solid Waste Coordinator, City of Des Moines  
Deanna Dawson, Executive Director, Suburban Cities Association  
Diane Carlson, Director of Regional Initiatives, King County Executive Office  
Christie True, Director, Department of Natural Resources & Parks (DNRP)  
Kevin Kiernan, Assistant Division Director, Solid Waste Division (SWD), DNRP  
Diane Yates, Intergovernmental Liaison, SWD, DNRP

## ***Amended and Restated Solid Waste Interlocal Agreement between King County and Cities***

### **Overview**

These briefing materials are intended to provide information to assist in Cities' review of the *Amended and Restated Solid Waste Interlocal Agreement* (new ILA). The County and the Metropolitan Solid Waste Management Advisory Committee have been working together over the past two years to extend the *Solid Waste Interlocal Agreement of 1988* (original ILA), which every City in King County, excluding Seattle and Milton, has signed. After intensive negotiations, a team of City and County representatives has reached agreement on a new ILA that will foster cooperation in our regional solid waste system. This agreement extends the original ILA by 12.5 years, from June 2028 through December 2040, which will keep rates lower by allowing for longer-term bonding for capital projects.

The new ILA includes several significant enhancements over the original ILA. It deals much more effectively with liability, establishing a protocol for payment of Environmental Liabilities, if and when they arise, including insurance and reserves. The intent to protect both City and County general funds from Environmental Liabilities to the greatest extent feasible is explicit. Other improvements over the original ILA include:

- Commitment to the continued involvement of the City advisory group, renamed the Metropolitan Solid Waste Advisory Committee (MSWAC)
- An expanded role for Cities in system planning, including long-term disposal alternatives and in establishing financial policies
- A dispute resolution process, which includes non-binding mediation
- An acknowledgment that solid waste facilities are regional facilities and host cities and neighboring cities may receive mitigation for impacts

The County is asking each City to provide **a non-binding statement of interest that indicates likely participation in the new ILA by January 31, 2013**. This information will be helpful to the County as it moves forward with a variety of planning efforts.

By mid-2014, the Solid Waste Division will propose rates for the 2015/16 rate period. Financial policies developed in collaboration with MSWAC will inform the rate study. To allow sufficient time to develop those policies, the County needs each City to **act on the ILA by April 30, 2013**.

# ***Solid Waste Interlocal Agreement between King County and Cities***



King County

Department of Natural Resources and Parks

**Solid Waste Division**

# Background/History

- 2010-2012: ILA Drafting Committee updates ILA incorporating MSWMAC recommendations; Negotiations stalled over environmental liability
- July 2012: RPC briefed on status
- August 15, 2012: SCA adopts liability principles
- October 2012: City/County team convenes to restart discussions
- December 2012: ILA drafting complete; Amended and Restated ILA transmitted to Cities for review and approval

# SCA Principles: Environmental Liability

## **Principles on liability were adopted by the SCA Board on August 15, 2012:**

- SCA believes that solid waste system costs, which includes liability, should be funded by the utility;
- The solid waste interlocal agreement (ILA) between King County and participating cities should fairly allocate risk between both the cities and the county and should, to the greatest extent possible, protect both the county's general fund and cities' general funds against liability for cleanup claims arising at Cedar Hills Landfill;
- Neither party should receive priority in terms of the use of grant funds, insurance proceeds, reserve funds, or disposal rates to satisfy environmental liability;
- The ILA should establish that grant funding, if available, and disposal rates shall be used to set up a line of first defense to protect both the county's general fund, and the cities' general fund.
- The ILA should provide that:
  - The county will purchase and maintain liability insurance using disposal rates to cover liability arising out of the Cedar Hills Landfill, if such insurance is available under commercially reasonable terms and conditions. Said insurance shall cover both the county, and the cities;
  - The county will establish and maintain a reserve fund from disposal rates to cover both the city and the county for liability not covered by insurance. The county shall consult with the Metropolitan Solid Waste Management Advisory Committee (MSWMAC) as to the amount of the reserve fund;
  - In the event that liability for cleanup exceeds the funds available through the insurance and reserve fund, disposal rates should be used to cover both county and city liability to the fullest extent legal and feasible.

# Key Improvements Over Current ILA

- Extends the ILA 12.5 years, through December 2040, allowing long-term financing to keep rates lower and providing long-term stability
- Updates liability section guided by principles from Sound Cities Association (SCA) to protect City and County general funds from long-term liability
- Expands City role in System planning
- Adds new mitigation section guided by principles from SCA
- Adds new dispute resolution section
- Updated to be consistent with current conditions and laws

## Key Improvements Over Current ILA: Environmental Liability

- Nothing in the agreement creates new environmental liability or releases any third party from environmental liability
- Establishes a protocol for setting aside funds to pay for environmental liability and, if necessary, a fair and equitable process for distributing those funds
- Explicitly recognizes the intent of the parties to protect City and County general funds to the extent possible from environmental liability, including:
  - Purchasing insurance
  - Establishing an environmental reserve fund
  - Pursuing grants to cover costs
  - Developing a financial plan, including a rate schedule to cover costs

## Key Improvements Over Current ILA: Governance

- Metropolitan Solid Waste Advisory Committee (MSWAC) memorialized in ILA
- Maintains consistency with role of the RPC as provided by the King County Charter
- Increased City role in System planning, including a framework for reviewing financial policies and long-term disposal options
- Dispute resolution provisions

# The Transfer System

- ILA recognizes the need for transfer system improvements
- Extension of the ILA will facilitate long-term financing of those improvements while mitigating rate impacts – longer-term bonds will keep rates lower
- Recognizes that the Plan can be modified

# Benefits of New ILA

- Parties to the revised ILA will benefit from longer term bonds and estimated rate savings of \$7 to \$9 per ton on debt
- System-wide savings of about \$4 million in the 2013/14 rate period and over \$8 million per year by 2019
- Provides long-term protection for City and County general funds from environmental liability
- Expanded City role in system planning, including financial policies and long-term disposal options – ILA allows for full range of future disposal options to be considered through Comprehensive Plan process
- City mitigation for transfer facilities
- Long-term stability in planning and financing of solid waste system for residents and businesses

# Next Steps

- County requests a non-binding statement of interest in signing the new ILA by January 31, 2013
- In order to have sufficient time to develop, in collaboration with MSWAC, financial policies that will affect the next rate study, the County needs each City to act on the ILA by April 30, 2013

**Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities**

**ILA Term Sheet**

- Accountability
- Durability: address long-term needs
- Transparency
- Simplicity

| <b>Part I: Contract Term, Capital Financing, and Ability to Terminate Agreement in Advance</b>                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contract Term</b>                                                                                              | ILA is extended 12.5 years, through December 2040.<br>As of June 2012, there would be 28.5 years remaining on the contract.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Bond Term</b><br>How long could the financing term be for bonds funding the Transfer Station improvement plan? | 20 to 28 years, depending on when each series of bonds to finance the transfer station projects is issued.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Disposal Fees (tonnage rates)</b>                                                                              | Significantly lower cost per ton is possible as compared to the "no extension" option<br>The longer the term, the higher the total price paid for the improvements (more interest paid).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Negotiated ILA Extension</b>                                                                                   | An ILA extension is likely to be necessary at some point during the term of the amended ILA in order to accommodate a cost-effective long-term disposal solution after Cedar Hills closes.<br>The ILA will include language describing the parties' intent to enter into negotiations to extend the ILA before Cedar Hills closes, but after such time as the region has made a decision on the long-term disposal option; that decision will require amending the Comprehensive Solid Waste Management Plan (CSWMP). The parties could choose to begin the negotiations before ratification of the CSWMP amendment is complete.<br>The amended ILA cannot compel either party to agree to a future extension of the term. |
| <b>If Cedar Hills closes on schedule (2025), what happens if the ILA is <u>not</u> extended again?</b>            | The County would have to provide disposal at another location for 15 years (2025 through 2040). The City will continue to be part of the County system during that time. This is a relatively short time period and as a result the assumption is that costs would likely be considerably more expensive than disposal at Cedar Hills.                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Early Termination</b><br>Will cities have the ability to terminate the ILA early?                              | No.<br>If a city has the ability to terminate the ILA early, the County will, in exchange, need to be able to recoup from that city, at a minimum, all the debt service costs associated with the terminating city's share of the transfer station system upgrades. Not included because the cost of prepaying debt service for a city's share of transfer station system improvements is likely to be so expensive that no city would choose                                                                                                                                                                                                                                                                              |

# Amended and Restated Solid Waste Interlocal Agreement between King County and Cities

## ILA Term Sheet

|                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          | to exercise this option. It would imply the city would prepay for a 50-year asset after a few years, and, the terminating city would not be assured of having access to the system assets after leaving.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| What if some cities don't agree to extend the ILA?       | Non-extending cities would be in a different customer class than extending cities. Non-extending cities would be charged rates to ensure their portion of transfer station debt is fully repaid by June 2028. As a result, their rates would be \$7-\$9 per ton higher than for cities extending the ILA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Part 2: Governance</b>                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Cities Advisory Committee                                | <p>The Cities advisory committee (MSWMAC) is memorialized within the ILA as the Metropolitan Solid Waste Advisory Committee (MSWAC). Its structure and operations are no longer controlled by County Code. It has the same composition, same rules as today:</p> <ul style="list-style-type: none"> <li>• Each city may appoint a delegate and alternates to MSWAC.</li> <li>• MSWAC retains its existing responsibilities.</li> <li>• MSWAC will elect a chair and vice-chair, and adopt its own bylaws.</li> <li>• MSWAC will be staffed by the County.</li> <li>• MSWAC remains an advisory body. It will coordinate with the Solid Waste Advisory Committee (SWAC) and provide advice to SWAC as it deems appropriate. MSWAC will also provide recommendations to the County Executive, County Council, and other entities.</li> </ul> <p>The County agrees to consider and respond on a timely basis to questions and issues from MSWAC, including but not limited to development of efficient and accountable billing practices.</p> |
| Regional Policy Committee (RPC)                          | <p>The role of the RPC is not affected by the amended and restated ILA. The RPC will retain its current charter role in acting on Comprehensive Solid Waste Management Plan (CSWMP) amendments and financial policies. Its existing responsibilities as the Solid Waste Interlocal Forum will continue through the end of the current ILA in June 2028. After 2028 those responsibilities will go to the RPC.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Part 3: Comprehensive Solid Waste Management Plan</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Process                                                  | <p>The CSWMP is reviewed and amended as needed. Several years before the Cedar Hills Landfill closes, the CSWMP will be amended to include language defining the regional disposal option.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                          | <p>The ILA will confirm current practice that the County Council acts to approve the CSWMP <i>subject to ratification</i>, in the same way that Countywide Planning Policies are now first approved by the County and then subject to ratification.</p> <p>The County will act after seeking input from MSWAC, among others.</p> <p>Once the County action is effective, the ratification period would run for 120 days.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

**Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities**

**IIA Term Sheet**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The negotiating team considered modifying the ratification requirement. Because of the difficulties of administering two different ratification processes if some cities extend and others do not, the current process was left unchanged. It has been used several times over the term of the agreement without significant problems.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><b>Ratification Requirement</b><br/>The current IIA requires that jurisdictions representing 75% of the contract city population must approve CSWMP changes. The 75% is determined based on those cities taking a position.</p> |
| <p align="center"><b>Part 4: Other Issues</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                    |
| <p>The parties will endeavor to notify each other in the event of the development of any plan, contract, dispute, use of environmental liability funds or other solid waste issue that could have potential significant impacts on the City and/or Cities, the County and/or the regional solid waste system.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p><b>Parties Obligations to Communicate</b></p>                                                                                                                                                                                   |
| <p>The County and the cities will coordinate on the development of emergency plans related to solid waste, including but not limited to debris management.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p><b>Emergency Planning</b></p>                                                                                                                                                                                                   |
| <p>The IIA will include a provision confirming that grants to cities in support of programs that benefit the Solid Waste system are a permissible use of system revenues.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p><b>Grants</b></p>                                                                                                                                                                                                               |
| <p>The IIA will acknowledge that solid waste facilities are regional facilities and host cities and neighboring cities may sustain impacts for which there are three types of mitigation:</p> <ol style="list-style-type: none"> <li>1. When new facilities are sited, or existing facilities are reconstructed, mitigation will be determined with advance input from host communities and neighboring cities, and per state law. The County will collaborate with potential host cities and neighboring cities in advance of both the environmental review and permitting processes, including seeking advance input from such cities as to potential impacts that should be addressed in scoping of environmental studies/documents, or in developing permit applications.</li> <li>2. With respect to existing facilities, the County will continue the full range of operational mitigation activities required under law (odor and noise control, maintenance, litter cleanup, etc.).</li> <li>3. The IIA will recognize the rights of cities to charge the County for direct impacts from operations consistent with State law (RCW 36.58.080). Cities that believe they are entitled to such mitigation may request the County undertake technical studies to determine the extent of such impacts; the County will undertake analysis it determines is reasonable and appropriate. The costs of such studies will be System costs. Dispute resolution would occur per the state statute provision, rather than the IIA dispute resolution provisions.</li> </ol> <p>Cities retain their full regulatory authority with respect to design, construction or operation of facilities within their jurisdiction.</p> | <p><b>Mitigation</b></p>                                                                                                                                                                                                           |

**Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities**

**ILA Term Sheet**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Cedar Hills Landfill Rent</b></p> <p>The County began leasing the Cedar Hills Landfill from the state in 1960 at a time when the solid waste function was still part of County General Fund operations. Throughout the '60s, '70s and into the '80s, the solid waste system was operated as part of the General Fund through a mix of County General Fund monies and solid waste fees. In 1983, the County formally began the effort to transform the solid waste system from a General Fund operation to a self-sustaining utility enterprise, fully funded from system revenues-- primarily tipping fees charged at the Cedar Hills Landfill. The Landfill was acquired by the General Fund from the state in 1992 and remains a General Fund asset. The General Fund began charging the Division for the use of this asset in 2004.</p> | <p>The ILA will acknowledge that rent is charged to the Division for use of the Cedar Hills Landfill, and clarify how the rent will be determined.</p> <p>The County will continue to charge the Solid Waste System rent for use of the Cedar Hills Landfill. The Landfill is a General Fund asset.</p> <p>The ILA will ensure that Landfill rent will be based on third party professional valuations using accepted MAI valuation principles. Cities will have input into the selection of the appraiser and will have an opportunity to review and comment on data inputs provided by the System to the appraiser for purposes of conducting the appraisal.</p> <p>The December 2011 appraisal setting the rent value for the period from 2013 through 2025 (the current estimated end of the Landfill's useful life) will be adjusted downward to ensure that the System is not charged for Landfill capacity that was included and paid for by the System per the previous (2004) appraisal. The same adjustment will be made with respect to any future appraisal.</p> <p>The ILA will define a clear process by which the value of Cedar Hills to the Division, and the associated rent, may be revalued during the Agreement, and will ensure engagement of MSWAC in that process.</p> <p>Rent costs are an operating cost to the Division that will be incorporated into solid waste rates. MSWAC will have input on all rate proposals, as well as the specific schedule of rent payments derived from the new appraisal.</p> <p>The County will commit to not charge General Fund rent for any transfer station property now in use, and will not charge General Fund rent for assets acquired in the future solely from System revenues. Assets owned by other County funds (e.g., the Roads Division, or other funds) will be subject to rent (and vice versa). Any revenue generated from System owned assets will be treated as revenues of the System.</p> |
| <p><b>Financial Policies</b></p> <p>The County will develop financial policies to guide the Division's operations and investments. The policies will address debt issuance, cost containment, reserves, asset ownership and use, and other financial issues. The policies will be developed through discussion with MSWAC, RPC, the County Executive and the County Council. Such policies will periodically be codified at the same time as CSWMP updates, but may be adopted from time to time as appropriate outside the CSWMP update cycle.</p>                                                                                                                                                                                                                                                                                              | <p><b>Dispute Resolution</b></p> <p>The ILA will replace the current dispute resolution provisions involving State DOE (State DOE is not willing to serve the role ascribed to it in the current ILA) with more standard provisions, similar to those used in other multi-party County ILAs. In event of a dispute, the first step will be for staff from the parties to meet. If the issue is not resolved, then the City Manager/Administrator from the city(ies) and the County Executive will meet. If the issue is still not resolved, non-binding mediation may be pursued if any party so chooses, prior to pursuing formal legal action. All cities will be notified of disputes at each step, and may join the dispute if they so choose. Costs of mediation will be split, with the cities (all those participating in the matter) paying half of the costs and the County paying half of the costs.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

**Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities**

**ILA Term Sheet**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Liability</b></p> <p>SCA Principles as agreed to by Executive Constantine form the basis for the Environmental Liability section. The County and the Cities agree that System-related costs, including environmental liabilities, should be funded by System revenues which include but are not limited to insurance proceeds, grants and rates. A protocol for payment of liabilities if and when they arise is established including:</p> <ul style="list-style-type: none"> <li>• Insurance, if commercially available with cities as additional insured</li> <li>• Any reserves established for environmental liability shall survive for 30 years after the closure of the Cedar Hills Landfill.</li> <li>• Grants to the extent available</li> <li>• Developing a financial plan including a rate schedule in consultation with MSWAC</li> </ul> <p>Specific language is included indicating it is the intent of the parties to protect their general funds from Environmental Liabilities to the greatest extent feasible.</p> | <p><b>Severability</b></p> <p>Team agreed not to include a severability section. Effect is that in the event one section of the contract is found to be invalid the Parties will need to meet to discuss how to remedy the issue</p> | <p><b>Survivability</b></p> <p>No obligations of the agreement shall survive the expiration of the contract except portions of the liability section including:</p> <ul style="list-style-type: none"> <li>• A three year obligation for tort related operational liability</li> <li>• Any insurance in effect at the end of the agreement shall continue for the term of the policy</li> <li>• Reserve fund is retained for 30 years following Cedar Hills closure</li> </ul> | <p><b>Flow Control</b></p> <p>Language in Section 6.2 is simplified to state "The City shall cause to be delivered to the County disposal system..." It does not specify what means the City shall use to accomplish this.</p> | <p><b>County Commitment to Transfer Station Plan</b></p> <p>Section 6.1.g is amended to state "The County shall provide facilities and services pursuant to the Comprehensive Solid Waste Management Plan <i>and the Solid Waste Transfer and Waste Management Plan as adopted...</i>"</p> | <p><b>Long-Term Bonds</b></p> <p>Section 6.1.f includes "The County shall primarily use long term bonds to finance transfer system improvements." This recognizes that in the past these improvements have been partially funded by cash. This section also includes a commitment to develop, through discussions with MSWAC, financial policies.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

***Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities  
Solid Waste Governance***

|                    | <b>Solid Waste Advisory Committee</b>                                                                                                                  | <b>Metropolitan Solid Waste Advisory Committee</b>                                                                                                                                                       | <b>Solid Waste Interlocal Forum</b>                                                                                                                |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Basis</b>       | RCW 70.95; KCC 10.28                                                                                                                                   | Amended and Restated Interlocal Agreement                                                                                                                                                                | Forum Agreement (Addendum to 1988 ILA)                                                                                                             |
| <b>Appointment</b> | Executive appoints; Council confirms                                                                                                                   | Cities appoint                                                                                                                                                                                           | County Council and Sound Cities Association appoint                                                                                                |
| <b>Membership</b>  | Interested citizens; local elected officials; waste management industry; recycling industry; labor; public interest groups; marketing interests        | Cities – staff, elected officials and consultants                                                                                                                                                        | Regional Policy Committee members excluding City of Seattle representatives                                                                        |
| <b>Advises</b>     | King County                                                                                                                                            | King County Executive and Council, Solid Waste Division, Solid Waste Advisory Committee, Solid Waste Interlocal Forum and Regional Policy Committee                                                      | King County Executive and Council, and other jurisdictions                                                                                         |
| <b>Duties</b>      | Advise King County on all aspects of solid waste management planning; assist in development of programs and policies concerning solid waste management | Advise the King County Executive and Council, Solid Waste Division, Solid Waste Advisory Committee, and other jurisdictions as appropriate, on all policy aspects of solid waste management and planning | Advise the King County Executive and Council, and other jurisdictions as appropriate, on all policy aspects of solid waste management and planning |

## **Rate Differences Between the Solid Waste Interlocal Agreement of 1988 and the Amended and Restated Solid Waste Interlocal Agreement**

The chart below compares estimated fees for Cities that choose to remain with the original 1988 ILA that expires in 2028 and those Cities that choose to sign the new ILA that expires in 2040.

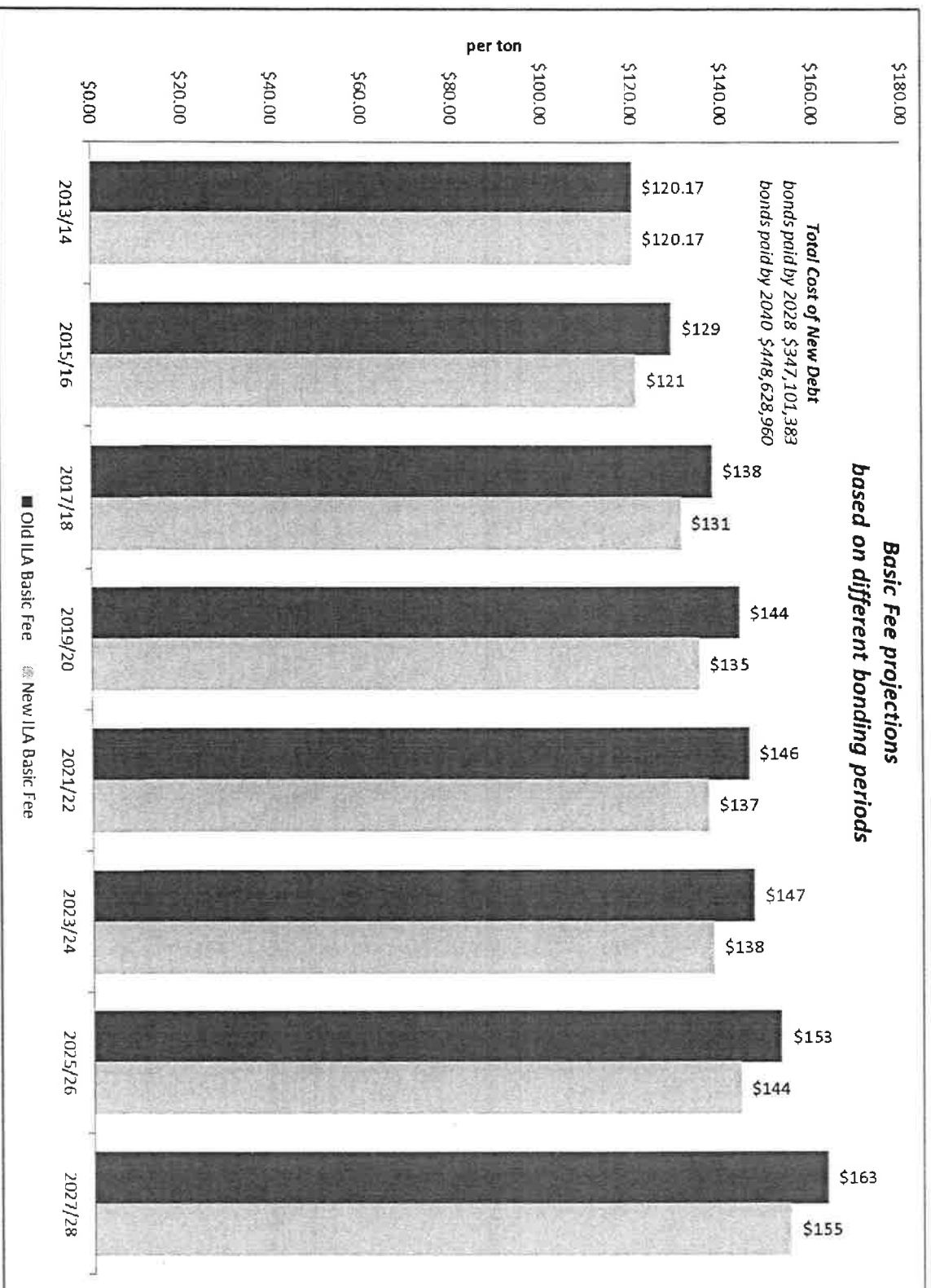
|                           | 2013/14  | 2015/16  | 2017/18  | 2019/20  | 2021/22  | 2023/24  | 2025/26  | 2027/28  |
|---------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Original ILA<br>Basic Fee | \$120.17 | \$129.00 | \$138.00 | \$144.00 | \$146.00 | \$147.00 | \$153.00 | \$163.00 |
| New ILA<br>Basic Fee      | \$120.17 | \$121.00 | \$131.00 | \$135.00 | \$137.00 | \$138.00 | \$144.00 | \$155.00 |
| Difference                | \$0.00   | \$8.00   | \$7.00   | \$9.00   | \$9.00   | \$9.00   | \$9.00   | \$8.00   |

See chart on page 2.

### **Notes:**

- *This is a planning level projection - actual fees may vary depending on a variety of circumstances, including the exact mix of Cities signing the Amended and Restated ILA*
- *For Cities not signing the new ILA, the fee includes the additional amount needed to pay for shorter-term financing - estimated fees assume interest rates for borrowing for 15 years at 2 percent and for 28 years at 3.25 percent*
- *New ILA 2015/16 fee reflects savings for longer-term bonds issued during the previous period (the 2013/14 fee of \$120.17 was based on an assumption of issuing shorter term bonds)*
- *Estimated fees are rounded to the nearest dollar*
- *Estimated fees differ from the 2012 Rate Study because assumptions for inflation and interest rates have been updated*
- *Fee estimates are based on current forecasts for tonnage, interest rates, inflation, transfer system improvements, etc.*
- *Operating expenses (labor costs, fuel, etc.) are assumed to increase at rate of inflation based on the King County Economic Forecast Council's August 2012 Seattle Annual CPI-U Forecast*

# **Rate Differences Between the Solid Waste Interlocal Agreement of 1988 and the Amended and Restated Solid Waste Interlocal Agreement**





# **Amended and Restated Solid Waste Interlocal Agreement between King County and Cities Frequently Asked Questions**

1. *What is the timeframe for Cities to adopt the new ILA?*  
By mid-2014 the Solid Waste Division will propose rates for the 2015/16 rate period. Financial policies developed in collaboration with the Metropolitan Solid Waste Advisory Committee will inform the rate study. To allow sufficient time to develop those policies and complete the rate study, the County needs each City to act on the ILA by April 30, 2013.

2. *What is the purpose of the non-binding statement of interest?*  
The County is asking each City to provide a non-binding statement of interest that indicates likely participation in the new ILA by January 31, 2013. This information will be helpful to the County as it moves forward with a variety of planning efforts, including updating the Draft Comprehensive Solid Waste Management Plan.

3. *What are the capital project financing needs in 2013 and 2014?*  
Presently, the division has \$75 million in Bond Anticipation Notes (BANs) that will expire on February 28, 2012. Those BANs will be converted to long-term bonds. Later in 2013, an additional \$13 million will be required for anticipated capital project expenditures. In 2014, it is anticipated that \$35 million will be needed.

4. *How does City participation in the new ILA affect capital project financing?*  
Financing for transfer system capital improvements will be primarily by long-term bonds. Ensuring adequate revenue to repay the bonds is critical and that revenue is directly dependent on City participation in the system. If enough cities sign the extended ILA, the County will issue bonds of 20 years or longer (out to 2040), which will mean lower per ton fees. Conversely, if cities do not choose to extend the ILA, bonds will only be issued out to 2028, which will increase rates. A mix of longer and shorter bonds may be possible if some cities extend the ILA and others do not.

5. *What are the implications for a City that chooses not to sign the new ILA?*  
Cities that choose to remain with the original ILA that expires in 2028 will pay rates that include the additional amount needed to pay for the shorter bonds. The additional amount will be in the range of \$7 to \$9 per ton. Cities that choose to remain with the original ILA will also not receive the benefits of the new ILA, including those related to potential environmental liability.  
6. *How long do cities have to adopt the new ILA?*  
In order to move forward with development of financial policies that will inform the 2015/16 rate period and other planning efforts, the County needs each City by April 30, 2013 to decide whether to sign the new ILA.

7. *How would insurance coverage and liability reserves be established?*  
The insurance coverage and liability reserves provided for under the new ILA would be established based on what is commercially available and determined appropriate in consultation with the Metropolitan Solid Waste Advisory Committee (MSWAC - note that the name of this committee changes in the new ILA from the Metropolitan Solid Waste Management Advisory Committee or MSWMAC).

***Amended and Restated Solid Waste Interlocal Agreement  
between King County and Cities  
Frequently Asked Questions***

8. Does this ILA lock Cities into the current Transfer System Plan?  
No. In the new ILA the County commits to provide facilities and services pursuant to adopted plans. The ILA also acknowledges that plans for transfer station improvements may be modified.
9. How does the ILA relate to the comprehensive solid waste management plan?  
The ILA provides a framework for Cities and the County to work collaboratively to maintain and update the comprehensive solid waste management plan and for adoption of the plan. Specific policies, plans, and strategies are not included in the ILA.
10. What about disposal after Cedar Hills closes?  
The ILA provides a framework for Cities and the County to plan for disposal post-Cedar Hills. At least seven years before the date that the landfill is projected to close, the County will seek advice and input from MSWAC and others on disposal alternatives.
11. Does the new ILA address Cedar Hills landfill rent?  
The ILA establishes a clear process for rent for Cedar Hills, limiting when rental payments can be changed, requiring a certified appraisal process be followed, and seeking review and comment from the Cities. It clearly states that the solid waste system shall not pay rent to the general fund for use of other county properties for transfer stations.
12. What if my City has more questions about this new ILA?  
If you have any questions or would like to schedule a briefing, please call or email Pat McLaughlin at 206-296-4385 or [pat.mclaughlin@kingcounty.gov](mailto:pat.mclaughlin@kingcounty.gov).

# AMENDED AND RESTATED SOLID WASTE INTERLOCAL AGREEMENT

This Amended and Restated Solid Waste Interlocal Agreement ("Agreement") is entered into between King County, a political subdivision of the State of Washington and the City of \_\_\_\_\_, a municipal corporation of the State of Washington, hereinafter referred to as "County" and "City" respectively. ~~This agreement~~Collectively, the County and the City are referred to as the "Parties." This Agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action as designated below:

King County: ~~Motion~~Ordinance No. \_\_\_\_\_

City: \_\_\_\_\_

## PREAMBLE

A. \_\_\_\_\_ This Agreement is entered into pursuant to ~~Chapter~~chapter 39.34 RCW for the purpose of extending, restating and amending the Solid Waste Interlocal Agreement between the Parties originally entered into in \_\_\_\_\_ (the "Original Agreement"). The Original Agreement provided for the cooperative management of ~~solid waste~~Solid Waste in King County. ~~It is the intent for a term of the parties to work forty (40) years, through~~ June 30, 2028. The Original Agreement is superseded by this Amended and Restated Agreement, as of the effective date of this Agreement. This Amended and Restated Agreement is effective for an additional twelve (12) years through December 31, 2040.

- B. The Parties intend to continue to cooperatively in establishing a solid waste management plan manage Solid Waste and to work collaboratively to maintain and periodically update the existing King County Comprehensive Solid Waste Management Plan (Comprehensive Plan) adopted pursuant to Chapter 70.95 RCW and with emphasis on:
- The Parties continue to support the established priorities for solid waste management of waste reduction, waste recycling, energy recovery or incineration, and landfilling. The parties particularly support waste reduction and recycling and shall cooperate to achieve the goals established by the comprehensive solid waste management plan:
- C. ~~The parties acknowledge their intent of Waste Prevention and Recycling as incorporated in the Comprehensive Solid Waste Management Plan, and to meet or surpass applicable environmental standards with regard to the solid waste system. Solid Waste System.~~
- D. The parties County and the Cities agree that ~~equivalent~~ system-related costs, including environmental liabilities, should be funded by System revenues which include but are not limited to insurance proceeds, grants and rates:
- E. The County, as the service provider, is in the best position to steward funds System revenues that the County and the Cities intend to be available to pay for environmental liabilities; and
- F. The County and the Cities recognize that at the time this Agreement goes into effect, it is impossible to know what the ultimate environmental liabilities could be; nevertheless, the County and the Cities wish to designate in this Agreement a protocol for the designation

and distribution of funding for potential future environmental liabilities in order to protect the general funds of the County and the Cities.

G. The County began renting the Cedar Hills Landfill from the State of Washington in 1960 and began using it for Disposal of Solid Waste in 1964. The County acquired ownership of the Cedar Hills Landfill from the State in 1992. The Cedar Hills Landfill remains an asset owned by the County.

H. The Parties expect that the Cedar Hills Landfill will be at capacity and closed at some date during the term of this Agreement, after which time all Solid Waste under this Agreement will need to be disposed of through alternate means, as determined by the Cities and the County through amendments to the Comprehensive Solid Waste Management Plan. The County currently estimates the useful life of the Cedar Hills Landfill will extend through 2025. It is possible that this useful life could be extended, or shortened, by System management decisions or factors beyond the control of the Parties. The County intends to charge rent for the use of the Cedar Hills Landfill for so long as the System uses this general fund asset and the Parties seek to clarify terms relative to the calculation of the associated rent.

I. The County and Cities participating in the System have worked collaboratively for several years to develop a plan for the replacement or upgrading of a series of transfer stations. The Parties acknowledge that these transfer station improvements, as they may be modified from time-to-time, will benefit Cities that are part of the System and the County. The Parties have determined that the extension of the term of the Original Agreement by twelve (12) years as accomplished by this Agreement is appropriate in

order to facilitate the long-term financing of transfer station improvements and to mitigate rate impacts of such financing.

A.K. The Parties have further determined that in order to equitably allocate the benefit to all System Users from the transfer station improvements, different customer classes should receive equivalent basic services may be established by the County to ensure System Users do not pay a disproportionate share of the cost of these improvements as a result of a decision by a city not to extend the term of the Original Agreement.

L. The Parties have further determined it is appropriate to strengthen and formalize the advisory role of the Cities regarding System operations.

The Parties agree as follows:

## I. DEFINITIONS

For purposes of this Agreement the following definitions shall apply:

"Basic Services" "Cedar Hills Landfill" means services provided the landfill owned and operated by the County located in southeast King County Department of Natural Resources, "Cities" refers to all Cities that have signed an Amended and Restated Solid Waste Division, including the management and handling of solid waste, Interlocal Agreement in substantially identical form to this Agreement.

"Comprehensive Solid Waste Management Plan" or "Comprehensive Plan" means the

~~comprehensive plan~~ Comprehensive Solid Waste Management Plan, as approved and amended from time to time, for solid waste management the System, as required by RCW Chapter

70.95.080 RCW.

"Designated Interlocal Forum" means a group formed pursuant to the Forum Interlocal

Agreement comprised of representatives of unincorporated King County designated by the King County Council, representatives of the City of Seattle designated by the City of Seattle, and representatives of other incorporated cities and towns within King County that are signatories to

the Forum Interlocal Agreement.

"County" means King County, a Charter County and political subdivision of the State of

Washington.

"Disposal" means the final treatment, utilization, processing, deposition, or incineration of solid waste Solid Waste but shall not include waste reduction Waste Prevention or waste

recycling Recycling as defined herein.

"Diversion" "Disposal Rates" means the directing or permitting fee charged by the County to

System Users to cover all costs of the System consistent with this Agreement, all state, federal and local laws governing solid waste and the Solid Waste Comprehensive Plan.

"Divert" means to direct or permit the directing of solid waste Solid Waste to

~~disposal~~ Disposal sites other than the ~~disposal~~ Disposal site(s) designated by King County.

\_\_\_\_\_ "Energy/Resource Recovery" means "the recovery of energy in a usable form from mass burning or refuse-derived fuel ~~incineration~~, pyrolysis or any other means of using the heat of combustion of solid waste." Solid Waste that involves high temperature (above 1,200 degrees F) processing." (WAC chapter 173-304, 350, 100 WAC).

\_\_\_\_\_ "Landfill" means "a disposal facility or part of a facility at which waste Solid Waste is placed in or on land and which is not a land treatment facility." (RCW 70.95.030).

\_\_\_\_\_ "Metropolitan Solid Waste Advisory Committee" or "MSWAC" means the advisory committee composed of city representatives, established pursuant to Section IX of this Agreement.

\_\_\_\_\_ "Moderate Risk Waste" means "(a) any waste that is limited to conditionally exempt small quantity generator waste that exhibits any of the characteristics of and household hazardous waste but is exempt from regulation under this as those terms are defined in chapter solely because 173-350 WAC, as amended.

\_\_\_\_\_ "Original Agreement" means the Solid Waste Interlocal Agreement first entered into by and between the Parties, which is amended and restated by this Agreement. "Original Agreements" means collectively all such agreements between Cities and the County in substantially the same form as the Original Agreement.

"Parties" means collectively the County and the City or Cities.

"Recycling" as defined in chapter 70.95.030 RCW, as amended, means transforming or

remanufacturing waste is generated in quantities below the threshold materials into usable or

marketable materials for regulation and (b) any household wastes which are generated from the

dispose use other than landfill Disposal or incineration.

"Regional Policy Committee" means the Regional Policy Committee created pursuant to

approval of substances identified by the department as hazardous household substances." (RCW

70.105.010) the County voters in 1993, the composition and responsibilities of which are

prescribed in King County Charter Section 270 and chapter 1.24 King County Code, as they now

exist or hereafter may be amended.

"Solid Waste" means all putrescible and nonputrescible solid and semisolid wastes;

including but not limited to garbage, rubbish, ashes, industrial wastes, swill, commercial waste,

sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and

contaminated soils and contaminated dredged materials, discarded commodities and recyclable

materials, but shall not include dangerous, hazardous, or extremely hazardous waste, as those

terms are defined in chapter 173-303 WAC, as amended; and shall further not include those

wastes excluded from the regulations established in chapter 173-350 WAC, more specifically

identified in Section 173-350-020 WAC.

"System" means "Solid Waste Advisory Committee" or "SWAC" means the inter-

disciplinary advisory forum or its successor created by the King County's system of solid

waste County Code pursuant to chapter 70.95.165 RCW.

"System" includes King County's Solid Waste facilities used to manage Solid Wastes

which includes but is not limited to transfer stations, rural and regional drop boxes, landfills,

recycling systems and facilities, energy, and resource recovery facilities and processing facilities

as authorized by RCW chapter 36.58.040, RCW and as established pursuant to the approved King

County Comprehensive Solid Waste Management Plan.

"Waste Recycling" means "reusing waste materials and extracting valuable materials from a

waste stream." (RCW 70.95.030)

"System User" or "System Users" means Cities and any person utilizing the County's

System for Solid Waste handling, Recycling or Disposal.

"Waste Reduction/Prevention" means reducing the amount or type of waste generated but,

Waste Prevention shall not include reduction of already-generated waste through energy

recovery or incineration. "Landfill" means "a disposal facility or part of a facility at which waste

is placed in or on land and which is not a land treatment facility." (RCW 70.95.030).

incineration, or otherwise.

## II. PURPOSE

The purpose of this Agreement is to foster transparency and cooperation between the

Parties and to establish the respective responsibilities of the parties Parties in a solid waste Solid

Waste management system which includes System, including but is not limited to: planning;

waste reduction; recycling; and disposal of mixed municipal solid waste, industrial waste;

demolition debris and all other waste defined as solid waste by RCW 70.95.030; Waste

Prevention, Recycling, and moderate risk waste as defined in RCW 70.105.010 Disposal.

### III. DURATION

This Agreement shall become effective on \_\_\_\_\_ as of \_\_\_\_\_

and shall remain in effect through June 30, 2028 December 31, 2040.

#### IV. APPROVAL

~~This Agreement shall be submitted to the Washington State Department of Ecology for its approval as to all matters within its jurisdiction. This Agreement shall be filed with the City Clerk, and with the Clerk of the King County Council.~~

~~This Agreement will be approved and filed in accordance with chapter 39.34 RCW.~~

#### V. REVIEW AND RENEGOTIATION TO FURTHER EXTEND TERM OF AGREEMENT

~~5.1 Either party may request review and/or renegotiation of any provision of this Agreement other than those specified in Section 5.2 below during the six-month period immediately preceding July 1, 2003, which is the fifteenth anniversary of the effective date of identical agreements executed by a majority of cities in King County with the County and during the six-month period immediately preceding each succeeding fifth anniversary thereafter. Such request must be in writing and must specify the provision(s) of the Agreement for which review/renegotiation is requested. Review and/or renegotiation pursuant to such written request shall be initiated within thirty days of said receipt.~~

~~5.2 Review and/or renegotiation shall not include the issues of system rates and charges; waste stream control or diversion unless agreed by both parties.~~

~~5.3 In the event the parties are not able to mutually and satisfactorily resolve the issues set forth in said request within six months from the date of receipt of said request, either party may unilaterally request the Forum to review the issues presented and issue a written recommendation within 90 days of receipt of said request by the Forum. Review of said request shall be pursuant to the procedures set forth in the Interlocal Agreement creating the Forum and pursuant to the Forum's bylaws. The written decision of the Forum shall be advisory to the parties.~~

~~5.4-5.1 The Parties recognize that System Users benefit from long-term Disposal arrangements, both in terms of predictability of System costs and operations, and the likelihood that more cost competitive rates can be achieved with longer-term Disposal contracts as compared to shorter-term contracts. To that end, at least seven (7) years before the date that~~

the County projects that the Cedar Hills Landfill will close, or prior to the end of this Agreement, whichever is sooner, the County will engage with MSWAC and the Solid Waste Advisory Committee, among others, to seek their advice and input on the Disposal alternatives to be used after closure of the Cedar Hills Landfill, associated changes to the System, estimated costs associated with the recommended Disposal alternatives, and amendments to the Comprehensive Solid Waste Management Plan necessary to support these changes. Concurrently, the Parties will meet to negotiate an extension of the term of the Agreement for the purpose of facilitating the long-term Disposal of Solid Waste after closure of the Cedar Hills Landfill. Nothing in this Agreement shall require the Parties to reach agreement on an extension of the term of this Agreement. If the Parties fail to reach agreement on an extension, the Dispute Resolution provisions of Section XIII do not apply, and this Agreement shall remain unchanged.

5.2 Notwithstanding any other provision in this paragraph Agreement to the contrary, the parties may, pursuant to mutual written agreement, modify or amend any provision of this Agreement at any time during the term of said Agreement.

## VI. GENERAL OBLIGATIONS OF PARTIES

### 6.1 KING COUNTY KING COUNTY

#### 6.1.a.—Management. ~~King~~The County agrees to provide county-wide solid waste

Solid Waste management services, as specified in this Section, for waste/Solid Waste generated and collected within jurisdictions party to this Agreement—the City, except waste eliminated through Waste Prevention or waste recycling activities. The County agrees to dispose of or designate disposal/Disposal sites for all solid waste including moderate risk waste/Solid Waste and Moderate Risk Waste generated and/or collected within the corporate limits of the City which is delivered to ~~King County~~The System in accordance with all applicable federal, state Federal, State and local environmental health laws, rules, or regulations, as those laws are described in Subsection 8.5.a. The County shall maintain records as necessary to fulfill obligations under this Agreement.

#### 6.1.b.—Planning. ~~King~~The County shall serve as the planning authority within

King County for solid waste including moderate risk waste/Solid Waste and Moderate Risk Waste under this Agreement but shall not be responsible for planning for hazardous or dangerous any other waste or have any other planning responsibility that is specifically designated by State or Federal statute under this Agreement.

#### 6.1.c.—Operation. King County shall be or shall designate or authorize the

operating authority for transfer, processing and disposal/Disposal facilities, including public landfills, waste reduction or recycling and other facilities, and energy/resource recovery facilities consistent with the adopted Comprehensive Plan as well as closure and post-closure responsibilities for landfills which are or were operated by ~~King~~the County.

6.1.d- ~~Collection Service.~~ ~~The County shall not provide solid waste~~ Solid

Waste collection services within the corporate limits of the City, unless permitted by law and

agreed to by both ~~parties~~ Parties.

6.1.e- ~~Support and Assistance.~~ ~~The County shall provide support and~~

technical assistance to the City ~~if the City seeks to establish consistent with the Comprehensive~~

Solid Waste Management Plan for a waste reduction and recycling ~~Recycling~~

program compatible with the County waste reduction and recycling plan. Such support may

include the award of grants to support programs with System benefits. The County shall develop

educational materials related to waste reduction ~~Waste Prevention and recycling~~ Recycling and

strategies for maximizing the usefulness of the educational materials and will make these

available to the City for its use.- Although the County will not be required to provide a particular

level of support or fund any City activities related to waste reduction ~~Waste Prevention~~ and

recycling. ~~King Recycling.~~ the County intends to move forward aggressively to establish waste

reduction ~~promote Waste Prevention and recycling programs~~ Recycling.

6.1.f- ~~Forecast.~~ The County shall develop waste ~~Solid Waste~~ stream forecasts in

connection with System operations as part of the comprehensive planning process and assumes

all risks related to facility sizing based upon such forecasts in accordance with Article XI.

6.1.g—Facilities and Services. The County shall provide facilities and services

including waste reduction and recycling shall be provided pursuant to the comprehensive solid

waste Comprehensive Solid Waste Management Plan and the Solid Waste Transfer and Waste

Management plan. All personal as adopted and real property acquired by King County for solid

waste management system purposes Solid Waste stream forecasts.

6.1.h Financial Policies. The County will maintain financial policies to guide

the System's operations and investments. The policies shall be consistent with this Agreement

and shall address debt issuance, rate stabilization, cost containment, reserves, asset ownership

and use, and other financial issues. The County shall primarily use long term bonds to finance

transfer System improvements. The policies shall be the property of King County developed

and/or revised through discussion with MSWAC, the Regional Policy Committee, the County

Executive and the County Council. Such policies shall be codified at the same time as the

Comprehensive Plan updates, but may be adopted from time to time as appropriate outside the

Comprehensive Plan process.

6.2 CITY City

6.2.a—Collection. The City, an entity designated by the City or such other entity

as is authorized by state law shall serve as operating authority for solid waste Solid Waste

collection services provided within the City's corporate limits.

6.2.b—Disposal. The City shall by ordinance designate cause to be delivered to

the County disposal system County's System for the disposal of Disposal all solid waste including

moderate risk wastes such Solid Waste and Moderate Risk Waste which is authorized to be

delivered to the System in accordance with all applicable Federal, State and local environmental

health laws, rules or regulations and is generated and/or collected within the corporate limits of the City and shall authorize the County to designate ~~disposal~~ sites for the

~~disposal~~ of all ~~solid waste including moderate risk wastes~~ such Solid Waste and Moderate Risk Waste generated or collected within the corporate limits of the City, except for ~~solid waste~~ Solid Waste which is eliminated through ~~waste reduction~~ Waste Prevention or waste recycling/Recycling activities consistent with the Comprehensive Solid Waste Management Plan.

No ~~solid waste~~ Solid Waste generated or collected within the City may be ~~diverted~~ Diverted from the designated ~~disposal~~ sites without County approval.

#### 6.3 JOINT RESPONSIBILITIES.

6.3.a Consistent with the Parties' overall commitment to ongoing

communication and coordination, the Parties will endeavor to notify and coordinate with each other on the development of any City or County plan, facility, contract, dispute, or other Solid Waste issue that could have potential significant impacts on the County, the System, or the City or Cities.

6.3.b The Parties, together with other Cities, will coordinate on the development of emergency plans related to Solid Waste, including but not limited to debris management.

### VII. COUNTY SHALL SET DISPOSAL RATES

#### AND OPERATING RULES FOR DISPOSAL; USE OF SYSTEM REVENUES

7.1 In establishing or amending ~~disposal rates~~ Disposal Rates for system users, the

~~County System Users, the County shall consult with MSWAC consistent with Section IX. The County may adopt and amend by ordinance rates necessary to recover all costs of operation~~

System including the but not limited to operations and maintenance, costs for handling, processing, disposal and Disposal of Solid Waste, siting, design and construction of facility upgrades or new facilities, Recycling, education and mitigation, planning, Waste Prevention, reserve funds, financing, defense and payment of claims, capital improvements, operational improvements, and the insurance, System liabilities including environmental releases, monitoring and closure of landfills which are or were operated by King County, King County, property acquisition, grants to cities, and administrative functions necessary to support the System and Solid Waste handling services during emergencies as established by local, state and federal agencies or for any other lawful solid waste purpose, and in accordance with chapter 43.09.210 RCW. Revenues from Disposal rates shall be used only for such purposes. The County shall establish classes of service customers for basic solid waste Solid Waste management services and by ordinance shall establish rates for users classes of each class customers.

7.2. It is understood and agreed that System costs include payments to the County

general fund for Disposal of Solid Waste at the Cedar Hills Landfill calculated in accordance with this Section 7.2, and that such rental payments shall be established based on use valuations provided to the County by an independent-third party Member, Appraisal Institute (MAI) certified appraiser selected by the County in consultation with MSWAC.

7.2.a A use valuation shall be prepared consistent with MAI accepted principles for the purpose of quantifying the value to the System of the use of Cedar Hills Landfill for

Disposal of Solid Waste over a specified period of time (the valuation period). The County shall establish a schedule of annual use charges for the System's use of the Cedar Hills Landfill which shall not exceed the most recent use valuation. Prior to establishing the schedule of annual use charges, the County shall seek review and comment as to both the use valuation and the

proposed payment schedule from MSWAC. Upon request, the County will share with and explain to MSWAC the information the appraiser requests for purposes of developing the appraiser's recommendation.

7.2.b Use valuations and the underlying schedule of use charges shall be updated if there are significant changes in Cedar Hills Landfill capacity as a result of opening

new Disposal areas and as determined by revisions to the existing Cedar Hills Regional Landfill Site Development Plan; in that event, an updated appraisal will be performed in compliance with MAI accepted principles. Otherwise, a reappraisal will not occur. Assuming a revision in the schedule of use charges occurs based on a revised appraisal, the resulting use charges shall be

applied beginning in the subsequent rate period.

7.2.c The County general fund shall not charge use fees or receive other

consideration from the System for the System's use of any transfer station property in use as of

the effective date of this Agreement. The County further agrees that the County general fund may not receive payments from the System for use of assets to the extent those assets are acquired with System revenues. As required by chapter 43.09.210 RCW, the System's use of assets acquired with the use of other separate County funds (e.g., the Roads Fund, or other funds) will be subject to use charges; similarly, the System will charge other County funds for use of System property.

8.1- Non-Environmental Liability Arising Out-of-County Operations. Except as provided herein this Section, Sections 8.5 and 8.6, the County shall indemnify and hold harmless the City and shall have the right and duty to defend the City through the County's attorneys against any and all claims arising out of the County's operations during the term of this Agreement and settle such claims, recognizing provided that all fees, costs, and expenses incurred by the County thereby are ~~system~~ ~~system~~ costs which ~~must~~ may be satisfied from disposal rates/disposal Rates as provided in Section VII herein. In providing such defense of the City, the County shall exercise good faith in such defense or settlement so as to protect the City's interest. For purposes of this ~~section~~ ~~Section~~ "claims arising out of the ~~county's~~ ~~County's~~ operations" shall include ~~mean~~ claims arising out of the ownership, control, or maintenance of the ~~system's~~ ~~System~~, but shall not include claims arising out of the City's operation of motor vehicles in connection with the ~~system's~~ ~~System~~ or other activities under the control of the City which may be incidental to the County's operation. The provisions of this Section shall not apply to claims arising out of the sole negligence or intentional acts of the City. The provisions of this Section shall survive for

## VIII. LIABILITY

claims brought within three (3) years past the term of this Agreement established under Section

### III.

8.2 If the County is not negligent, the City shall hold harmless, indemnify and defend the County for any property damages or personal injury solely caused by the City's negligent failure to comply with the provisions of Section 8.5.a.

8.3 Cooperation. In the event the County acts to defend the City against a claim under

Section 8.1, the City shall cooperate with the County. In the event the City acts to defend the

County, the County shall cooperate with the City.

8.4 8.3 Officers, Agents, and Employees. For purposes of this section Section

VIII, references to City or County shall be deemed to include the officers, employees and agents of either party, acting within the scope of their authority. Transporters or generators of

waste who are not officers or employees of the City or County are not included as agents of the

City or County for purposes of this Section.

8.4 Each Party by mutual negotiation hereby waives, with respect to the other Party

only, any immunity that would otherwise be available against such claims under the Industrial

Insurance provisions of Title 51 RCW.

8.5 Unacceptable Waste

8.5.a All waste generated or collected from within the corporate limits of the

City which is delivered to the system for disposal shall be in compliance with the resource conservation Resource Conservation and recovery act, as amended Recovery Act (42

U.S.C. § 6901 et seq.) (RCRA), chapters 70.95 and 70.105 RCW. King County Code

Title 10, King County Board of Health Rules and Regulations No. 8, the Solid Waste Division

operating rules, and all other applicable federal, state, Federal, State and local environmental

health laws, rules or regulations. The that impose restrictions or requirements on the type of waste that may be delivered to the System, as they now exist or are hereafter adopted or amended.

8.5.b For purposes of this Agreement, the City shall be deemed to have

complied with the requirements of Section 8.5.a- if it has adopted an ordinance requiring self-waste delivered to the system for disposal to meet the laws, rules, or regulations and by written agreement has authorized King County to enforce

thespecified in Subsection 8.5.a. However, nothing in this Agreement is intended to relieve the City from any obligation or liability it may have under the laws mentioned in Subsection 8.5.a arising out of the City's actions other than adopting, enforcing, or requiring compliance with said ordinance, such as liability, if any exists, of the City as a transporter or generator for improper transport or Disposal of regulated dangerous waste. Any environmental liability the City may have for releases of pollutants or hazardous or dangerous substances or wastes to the environment is dealt with under Sections 8.6 and 8.7.

8.5.c The City shall hold harmless, indemnify and defend the County for any

property damages or personal injury caused solely by the City's failure to adopt an ordinance under Subsection 8.5.b. In the event the City acts to defend the County under this Subsection, the County shall cooperate with the City.

8.5.d The City shall make best efforts to include language in its contracts.

franchise agreements, or licenses for the collection of Solid Waste within the City that allow for enforcement by the City against the collection contractor, franchisee or licensee for violations of the laws, rules, or regulations in Subsection 8.5.a. The requirements of this Subsection 8.5.d shall

apply to the City's first collection contract, franchise, or license that becomes effective or is

amended after the effective date of this Agreement.

8.5.d.i If waste is delivered to the System in violation of the laws,

rules, or regulations in Subsection 8.5.a, before requiring the City to take any action under

Subsection 8.5.d.ii, the County will make reasonable efforts to determine the parties' responsible

for the violation and will work with those parties to correct the violation, consistent with

applicable waste clearance and acceptance rules, permit obligations, and any other legal

requirements.

8.5.d.ii If the violation is not corrected under Subsection 8.5.d.i and waste is determined

by the County to have been generated or collected from within the corporate limits of the City-

8.5.b. The County shall provide the City with written notice of any

violation of this provision. Upon such notice, the City shall take immediate steps to remedy the violation and prevent similar future violations to the reasonable satisfaction of King County

which may include but not be limited to removing the waste and disposing of it in an approved

facility; provided that nothing in this Subsection 8.5.d.ii shall obligate the City to handle

regulated dangerous waste, as defined in WAC 173-351-200(1)(b)(i), and nothing in this

Subsection shall relieve the City of any obligation it may have apart from this Agreement to

handle regulated dangerous waste. If, in good faith, the City disagrees with the County regarding

the violation, such dispute shall be resolved between the parties using the Dispute

Resolution process in Section XII or, if immediate action is required to avoid an imminent threat

to public health, safety or the environment, in King County Superior Court. - Each party

shall be responsible for its attorney's own attorneys' fees and costs. - Failure of the City to take the

steps requested by the County pending Superior Court resolution shall not be deemed a violation

of this agreement. Agreement; provided, however, that this shall not release the City for damages

or loss to the County arising out of the failure to take such steps if the Court finds that the City

violated violation of the requirements to comply with applicable laws set forth in this

section Subsection 8.5.a.

8.6. Environmental Liability.

8.6.a Neither the County nor the City is not held harmless or

indemnified indemnifies the other with regard to any liability arising under

42 U.S.C. § 9601-9675 (CERCLA) as amended by the Superfund Amendments and

Reauthorization Act of 1986 (SARA) or as hereafter amended or pursuant to chapter 70.105D

RCW (MTCRA) or as hereafter amended and any state legislation imposing liability for System-

related cleanup of contaminated property; from the release of pollutants or hazardous or

dangerous substances; and/or damages resulting from property contaminated from the release of pollutants or hazardous or dangerous substances ("Environmental Liabilities").

#### IX. ~~FORUM~~

~~By entering into 8.6.b Nothing in this Agreement is intended to create new~~

Environmental Liability nor release any third-party from Environmental Liability. Rather, the

intent is to protect the general funds of the Parties to this Agreement by ensuring that, consistent

with best business practices, an adequate portion of Disposal Rates being collected from the

System Users are set aside and accessible in a fair and equitable manner to pay the respective

County and City ~~agree to enter into and execute a~~ City's Environmental Liabilities.

8.6.c The purpose of this Subsection is to establish a protocol for the setting

aside, and subsequent distribution of, Disposal Rates intended to pay for Environmental

Liabilities of the Parties, if and when such liabilities should arise, in order to safeguard the

Parties' general funds. To do so, the County shall:

8.6.c.i Use Disposal Rates to obtain and maintain, to the extent

commercially available under reasonable terms, insurance coverage for System-related

Environmental Liability that names the City as an Additional Insured. The County shall establish

the adequacy, amount and availability of such insurance in consultation with MSWAC. Any

insurance policy in effect on the termination date of this Agreement with a term that extends past

the termination date shall be maintained until the end of the policy term.

8.6.c.ii Use Disposal Rates to establish and maintain a reserve fund to

help pay the Parties' Environmental Liabilities not already covered by System rates or insurance maintained under Subsection 8.6.c.i above ("Environmental Reserve Fund"). The County shall establish the adequacy of the Environmental Reserve Fund in consultation with MSWAC and consistent with the financial policies described in Article VI. The County shall retain the Environmental Reserve Fund for a minimum of 30 years following the closure of the Cedar Hills Landfill (the "Retention Period"). During the Retention Period, the Environmental Reserve Fund shall be used solely for the purposes for which it was established under this Agreement. Unless otherwise required by law, at the end of the Retention Period, the County and Cities shall agree as to the disbursement of any amounts remaining in the Environmental Reserve Fund. If unable to agree, the County and City agree to submit disbursement to mediation and if unsuccessful to binding arbitration in a manner similar to Section 39.34.180 RCW to the extent permitted by law.

8.6.c.iii Pursue state or federal grant funds, such as grants from the Local Model Toxics Control Account under chapter 70.105D.070(3) RCW and chapter 173-322 WAC, or other state or federal funds as may be available and appropriate to pay for or remediate such Environmental Liabilities.

8.6.d If the funds available under Subsections 8.6.c.i-iii are not adequate to completely satisfy the Environmental Liabilities of the Parties to this Agreement then to the extent feasible and permitted by law, the County will establish a financial plan including a rate schedule to help pay for the County and City's remaining Environmental Liabilities in consultation with MSWAC.

8.6.e The County and the City shall act reasonably and quickly to utilize funds collected or set aside through the means specified in Subsections 8.6.c.i-iii and 8.6.d to conduct or finance response or clean-up activities in order to limit the County and City's exposure, or in

order to comply with a consent decree, administrative or other legal order. The County shall notify the City within 30 days of any use of the reserve fund established in 8.6.c.iii.

8.6.f. In any federal or state regulatory proceeding, and in any action for contribution, money expended by the County from the funds established in Subsections 8.6.c.i-iii and 8.6.d. to pay the costs of remedial investigation, cleanup, response or other action required pursuant to a state or federal laws or regulations shall be considered by the Parties to have been expended on behalf and for the benefit of the County and the Cities.

8.6.g. In the event that the funds established as specified in Subsections 8.6.c.i-iii and 8.6.d are insufficient to cover the entirety of the County and Cities' collective Environmental Liabilities, the funds described therein shall be equitably allocated between the County and Cities to satisfy their Environmental Liabilities. Factors to be considered in determining "equitably allocated" may include the size of each Party's System User base and the amount of rates paid by that System User base into the funds, and the amount of the Solid Waste generated by the Parties' respective System Users. Neither the County nor the Cities shall receive a benefit exceeding their Environmental Liabilities.

8.7 The County shall not charge or seek to recover from the City any costs or expenses for which the County indemnified the State of Washington in Exhibit A to the

Quitclaim Deed from the State to the County for the Cedar Hills Landfill, dated February 24, 1993, to the extent such costs are not included in System costs.

## IX. CITY ADVISORY COMMITTEE

- 9.1 There is hereby created an advisory committee comprised of representatives from cities, which shall be known as the Metropolitan Solid Waste Advisory Committee ("MSWAC"). The City may designate a representative and alternate(s) to serve on MSWAC. MSWAC shall elect a chair and vice-chair and shall adopt bylaws to guide its deliberations. The members of MSWAC shall serve at the pleasure of their appointing bodies and shall receive no compensation from the County.
- 9.2 MSWAC is the forum through which the Parties together with other cities participating in the System intend to discuss and seek to resolve System issues and concerns. MSWAC shall assume the following advisory responsibilities:
- 9.2.a Advise the King County Council, the King County Executive, Solid Waste Advisory Committee, and other jurisdictions as appropriate, on all policy aspects of Solid Waste management and planning;
- 9.2.b Consult with and advise the County on technical issues related to Solid Waste management and planning;
- 9.2.c Assist in the development of alternatives and recommendations for the Comprehensive Solid Waste Management Plan and other plans governing the future of the System, and facilitate a review and/or approval of the Comprehensive Solid Waste Management Plan by each jurisdiction;
- 9.2.d Assist in the development of proposed interlocal Agreements between King County and cities for planning, Waste Prevention and Recycling, and waste stream control;
- 9.2.e Review and comment on Disposal Rate proposals and County financial policies;

9.2.f Review and comment on status reports on Waste Prevention, Recycling, energy/resources recovery, and System operations with inter-jurisdictional impact.

9.2.g Promote information exchange and interaction between waste generators, cities, recyclers, and the County with respect to its planned and operated Disposal Systems.

9.2.h Provide coordination opportunities among the Solid Waste Advisory Committee, the Regional Policy Committee, the County, cities, private waste haulers, and recyclers.

9.2.i Assist cities in recognizing municipal Solid Waste responsibilities, including collection and Recycling, and effectively carrying out those responsibilities; and

9.2.j Provide input on such disputes as MSWAC deems appropriate.

9.3 The County shall assume the following responsibilities with respect to MSWAC:

9.3.a The County shall provide staff support to MSWAC.

9.3.b In consultation with the chair of MSWAC, the County shall notify all cities and their designated MSWAC representatives and alternates of the MSWAC meeting times, locations and meeting agendas. Notification by electronic mail or regular mail shall meet the requirements of this Subsection.

9.3.c The County will consider and respond on a timely basis to questions and issues posed by MSWAC regarding the System, and will seek to resolve those issues in collaboration with the Cities. Such issues shall include but are not limited to development of efficient and accountable billing practices; and

9.3.d The County shall provide all information and supporting documentation and analyses as reasonably requested by MSWAC for MSWAC to perform the duties and functions described in Section 9.2.

## X. FORUM INTERLOCAL AGREEMENT

10.1 As of the effective date of this Agreement, the *Forum Interlocal Agreement*:

Such agreement shall provide for the establishment of a representative Forum for consideration and/or determination of issues of policy regarding the term and conditions of this- and *Addendum to Solid Waste Interlocal Agreement and Forum Interlocal Agreement* by and between the City and County continue through June 30, 2028. After 2028 responsibilities assigned to the Forum shall be assigned to the Regional Policy Committee. The Parties agree that Solid Waste System policies and plans shall continue to be deemed regional countywide policies and plans that shall be referred to the Regional Policy Committee for review consistent with King County Charter Section 270.30 and chapter 1.24 King County Code.

## XXI. COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN

10.1.1- King County is designated to prepare the comprehensive solid waste management plan pursuant to the City's Solid Waste Management Comprehensive Plan (Comprehensive Plan) and this plan shall include the City's Solid Waste Management Comprehensive Plan pursuant to

RCW chapter 70.95.080(3)- RCW.

10.11.2 An initial comprehensive plan, which was prepared under the terms of this

Agreement as executed by a majority of cities in the County, was adopted in 1989 and approved

by the Department of Ecology in 1991. The plan Comprehensive Plan shall be reviewed

and any necessary revisions proposed at least once every three years following the approval of

the Comprehensive Plan by the State Department of Ecology. The County shall consult with

MSWAC to determine when revisions are necessary. King County shall provide services and

build facilities in accordance with the adopted Comprehensive Plan.

10.11.3 The Comprehensive Plans will promote waste reduction Waste Prevention

and recycling Recycling in accordance with Washington State solid waste Solid Waste

management priorities pursuant to Chapter 70.95 RCW, at a minimum.

10.11.4 The Comprehensive solid waste management plans Plans will be prepared

in accordance with Chapter 70.95 RCW and solid waste Solid Waste planning guidelines

developed by the Department of Ecology. The plan shall include, but not be limited to:

10.11.4.a Descriptions of and policies regarding management practices and

facilities required for handling all waste types;

10.11.4.b Schedules and responsibilities for implementing policies;

10.11.4.c Policies concerning waste reduction, recycling, energy Recycling,

Energy and resource recovery Resource Recovery, collection, transfer, long-haul transport,

disposal Disposal, enforcement and administration; and

10.11.4.d Operational plan for the elements discussed in Item c above.

10.11.5 The cost of preparation by King County of the Comprehensive Plan will

be considered a cost of the system System and financed out of the rate base.

1011.6-\_\_\_\_\_The Comprehensive Plans will be "adopted" within the meaning of this

Agreement when the following has occurred:

1011.6.a-\_\_\_\_\_The Comprehensive Plan is approved by the King County Council;

and

1011.6.b-\_\_\_\_\_The Comprehensive Plan is approved by ~~Cities~~ representing

three-quarters of the population of the incorporated jurisdiction that are parties to the Forum Interlocal Agreement. - In calculating the three-quarters, the calculations shall consider only those incorporated jurisdictions taking formal action to approve or disapprove the

~~Comprehensive~~ Plan within 120 days of receipt of the Plan.- The 120-day time period shall begin to run from receipt by an incorporated jurisdiction of the Forum's recommendation on the

~~Comprehensive~~ Plan, or, if the Forum is unable to make a recommendation, upon receipt of the Comprehensive Plan from the Forum without recommendation.

1011.7-\_\_\_\_\_Should the Comprehensive Plan be approved by the King County Council, but not receive approval of three-quarters of the ~~Cities~~ acting on the ~~Comprehensive~~ Plan, and should King County and the ~~Cities~~ be unable to resolve their disagreement, then the Comprehensive Plan shall be referred to the State Department of Ecology and the State

Department of Ecology will resolve any disputes regarding ~~Comprehensive~~ Plan adoption and adequacy by approving or disapproving the Comprehensive Plan or any part thereof.

1011.8-\_\_\_\_\_King County shall determine which cities are affected by any proposed

amendment to the Comprehensive Plan. -If any City disagrees with such determination, then the City can request that the Forum determine whether or not the City is affected. -Such

determination shall be made by a two-thirds majority vote of all representative members of the

Forum.

1011.9- Should King County and the affected jurisdictions be unable to agree on

amendments to the Comprehensive Plan, then the proposed amendments shall be referred to the

Department of Ecology to resolve any disputes regarding such amendments.

11.10.10- Should there be any impasse between the parties regarding

Comprehensive Plan adoption, adequacy, or consistency or inconsistency or whether any permits

or programs adopted or proposed are consistent with the Comprehensive Plan, then the

Department of Ecology shall resolve said disputes.

XI

## XII. MITIGATION

12.1 The County will design, construct and operate Solid Waste facilities in a manner

to mitigate their impact on host Cities and neighboring communities pursuant to applicable law

and regulations.

12.2 The Parties recognize that Solid Waste facilities are regional facilities. The

County further recognizes that host Cities and neighboring communities may sustain impacts

which can include but are not limited to local infrastructure, odor, traffic into and out of Solid

Waste facilities, noise and litter.

12.3 Collaboration in Environmental Review. In the event the County is the sole or co-

Lead Agency, then prior to making a threshold determination under the State Environmental

Policy Act (SEPA), the County will provide a copy of the SEPA environmental checklist, if any,

and proposed SEPA threshold determination to any identifiable Host City (as defined below) and

adjacent or neighboring city that is signatory to the Agreement and that may be affected by the

project ("Neighboring City") and seek their input. For any facility for which the County prepares an Environmental Impact Statement (EIS), the County will meet with any identified potential

Host City (as defined below) and any Neighboring City to seek input on the scope of the EIS and appropriate methodologies and assumptions in preparing the analyses supporting the EIS.

However, nothing in this Section shall limit or impair the County's ability to timely complete the environmental review process.

#### 12.4 Collaboration in Project Permitting. If a new or reconstructed Solid Waste facility

is proposed to be built within the boundaries of the City ("Host City") and the project requires

one or more "project permits" as defined in chapter 36.70B.020(4) RCW from the Host City,

before submitting its first application for any of the project permits, the County will meet with

the Host City and any Neighboring City, to seek input. However, nothing in this Section shall

limit or impair the County's ability to timely submit applications for or receive permits, nor

waive any permit processing or appeal timelines.

#### 12.5 Separately, the County and the City recognize that in accordance with 36.58.080

RCW, a city is authorized to charge the County to mitigate impacts directly attributable to a

County-owned Solid Waste facility. The County acknowledges that such direct costs include

wear and tear on infrastructure including roads. To the extent that the City establishes that such

charges are reasonably necessary to mitigate such impacts, payments to cover such impacts may

only be expended only to mitigate such impacts and are System costs. If the City believes that it

is entitled to mitigation under this Agreement, the City may request that the County undertake a

technical analysis regarding the extent of impacts authorized for mitigation. Upon receiving such

a request, the County, in coordination with the City and any necessary technical consultants, will

develop any analysis that is reasonable and appropriate to identify impacts. The cost for such analysis is a System cost. The City and County will work cooperatively to determine the appropriate mitigation payments and will document any agreement in a Memorandum of Agreement. If the City and the County cannot agree on mitigation payments, the dispute resolution process under chapter 36.58.080 RCW will apply rather than the dispute resolution process under Section XII of the Agreement.

### XIII. DISPUTE RESOLUTION

13.1 Unless otherwise expressly stated, the terms of this Section XIII shall apply to disputes arising under this Agreement.

13.2 Initial Meeting.

13.2.a Either Party shall give notice to the other in writing of a dispute involving

this Agreement.

13.2.b Within ten (10) business days of receiving or issuing such notice, the

County shall send an email notice to all Cities.

13.2.c Within ten (10) business days of receiving the County's notice under

Subsection 13.2.b, a City shall notify the County in writing or email if it wishes to participate in

the Dispute Resolution process.

13.2.d Within not less than twenty-one (21) days nor more than thirty (30) days

of the date of the initial notice of dispute issued under Subsection 13.2.a, the County shall

schedule a time for staff from the County and any City requesting to participate in the dispute

resolution process ("Participating City") to meet (the "initial meeting"). The County shall

endeavor to set such initial meeting a time and place convenient to all Participating Cities and to

the County.

### 13.3 Executives' Meeting.

13.3.a If the dispute is not resolved within sixty (60) days of the initial meeting,

then within seven (7) days of expiration of the sixty (60)-day period, the County shall send an

email notice to all Participating Cities that the dispute was not resolved and that a meeting of the

County Executive, or his/her designee and the chief executive officer(s) of each Participating

City, or the designees of each Participating City (an "executives' meeting") shall be scheduled to

attempt to resolve the dispute. It is provided, however, that the County and the Participating

Cities may mutually agree to extend the sixty (60)-day period for an additional fifteen (15) days

if they believe further progress may be made in resolving the dispute, in which case, the

County's obligation to send its email notice to the Participating Cities under this Subsection that

the dispute was not resolved shall be within seven (7) days of the end of the extension. Likewise,

the County and the Participating Cities may mutually conclude prior to the expiration of the sixty

(60)-day period that further progress is not likely in resolving the dispute at this level, in which

case, the County shall send its email notice that the dispute was not resolved within seven (7)

days of the date that the County and the Participating Cities mutually concluded that further

progress is not likely in resolving the dispute.

13.3.b Within seven (7) days of receiving the County's notice under Subsection

13.3.a each Participating City shall notify the County in writing or email if it wishes to

participate in the executives' meeting.

13.3.c Within not less than twenty-one (21) days nor more than thirty (30) days

of the date of the notice of the executives' meeting issued under Subsection 13.3.a, the County

shall schedule a time for the executives' meeting. The County shall endeavor to set such executives' meeting a time and place convenient to all Participating Cities that provided notice under Subsection 13.3.b and to the County.

13.4. Non-Binding Mediation.

13.4.a If the dispute is not resolved within thirty (30) days of the executives' meeting, then any Participating City that was Party to the executives' meeting or the County may refer the matter to non-binding mediation by sending written notice within thirty-five (35) days of the initial executives' meeting to all Parties to such meeting.

13.4.b Within seven (7) days of receiving or issuing notice that a matter will be referred to non-binding mediation, the County shall send an email notice to all Participating Cities that provided notice under Subsection 13.3.b informing them of the referral.

13.4.c Within seven (7) days of receiving the County's notice under Subsection 13.4.b, each Participating City shall notify the County in writing if it wishes to participate in the non-binding mediation.

13.4.d The mediator will be selected in the following manner: The City(ies) electing to participate in the mediation shall propose a mediator and the County shall propose a mediator; in the event the mediators are not the same person, the two mediators shall select a third mediator who shall mediate the dispute. Alternately, the City(ies) participating in the mediation and the County may agree to select a mediator through a mediation service mutually acceptable to the Parties. The Parties to the mediation shall share equally in the costs charged by the mediator or mediation service. For purposes of allocating costs of the mediator or mediation service, all Cities participating in the mediation will be considered one Party.

13.5 Superior Court. Any Party, after participating in the non-binding mediation, may

commence an action in King County Superior Court after one hundred eighty (180) days from

the commencement of the mediation, in order to resolve an issue that has not by then been

resolved through non-binding mediation, unless all Parties to the mediation agree to an earlier

date for ending the mediation.

13.6 Unless this Section XIII does not apply to a dispute, then the Parties agree that

they may not seek relief under this Agreement in a court of law or equity unless and until each of the procedural steps set forth in this Section XIII have been exhausted, provided, that if any

applicable statute of limitations will or may run during the time that may be required to exhaust

the procedural steps in this Section XIII, a Party may file suit to preserve a cause of action while

the Dispute Resolution process continues. The Parties agree that, if necessary and if allowed by

the court, they will seek a stay of any such suit while the Dispute Resolution process is

completed. If the dispute is resolved through the Dispute Resolution process, the Parties agree to

dismiss the lawsuit, including all claims, counterclaims, and cross-claims, with prejudice and

without costs to any Party.

#### XIV. FORCE MAJEURE

The parties are not liable for failure to perform pursuant to the terms of this

Agreement when failure to perform was due to an unforeseeable event beyond the control of

either party to this Agreement ("force majeure"). The term "force majeure" shall include,

without limitation by the following enumeration: acts of nature, acts of civil or military

authorities, terrorism, fire, accidents, shutdowns for purpose of emergency repairs, industrial,

civil or public disturbances, or labor disputes, causing the inability to perform the requirements

of this Agreement, if either Party is rendered unable, wholly or in part, by a force majeure event to perform or comply with any obligation or condition of this Agreement, upon giving notice and reasonably full particulars to the other Party, such obligation or condition shall be suspended only for the time and to the extent practicable to restore normal operations.

~~XXHV.~~ MERGER

This Agreement merges and supersedes all prior negotiations, representation and/or

agreements between the ~~parties~~Parties relating to the subject matter of this Agreement and

constitutes the entire contract between the parties except with regard to the provisions of the

~~Forum Interlocal Agreement~~Parties [except with regard to the provisions of the Forum Interlocal

Agreement]; provided that nothing in Section XV supersedes or amends any indemnification

obligation that may be in effect pursuant to a contract between the Parties other than the Original

Agreement; and further provided that nothing in this Agreement supersedes, amends or modifies

in any way any permit or approval applicable to the System or the County's operation of the

System within the jurisdiction of the City.

~~XXHXVI.~~ WAIVER

No waiver by either ~~party~~Party of any term or condition of this Agreement shall be

deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or a different provision of this Agreement.

~~XXVXVII.~~ THIRD PARTY BENEFICIARY

This Agreement is not entered into with the intent that it shall benefit any other entity or person except those expressly described herein, and no other such person or entity shall be

~~entitled to be treated as a third party beneficiary of this Agreement.~~

#### XV. SEVERABILITY

~~If any entitled to be treated as a third-party beneficiary of the provisions contained in this~~

Agreement.

#### XVIII. SURVIVABILITY

~~Except as provided in Section 8.1, 8.2, 8.3, Section 8.6.c, except 8.6.c.iii and Section 8.6d,~~

~~no obligations in this Agreement survive past the expiration date as established in Section III.~~

#### XIX. NOTICE

~~\_\_\_\_\_ are held illegal, invalid or unenforceable, Except as otherwise provided in this~~

~~Agreement, a notice required to be provided under the remaining provisions of this~~

~~Agreement shall remain in full force and effect, be delivered by certified mail, return receipt~~

~~requested or by personal service to the following person:~~

~~XVI. For the City:~~

|

|

For the County.

Director

King County Solid Waste Division  
201 South Jackson Street, Suite 701  
Seattle, Washington 98104

~~NOTICE~~

IN WITNESS WHEREOF, this Agreement has been executed by each party.

on the date set forth below:

CITY of

KING COUNTY

\_\_\_\_\_  
(Mayor) \_\_\_\_\_/City Manager)  
King County Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pursuant to Resolution No. \_\_\_\_\_  
Pursuant to Motion No. \_\_\_\_\_

\_\_\_\_\_  
Clerk-Attest

\_\_\_\_\_  
Approved as to form and legality

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

\_\_\_\_\_  
King County Deputy Prosecuting Attorney

Date

Date

Environ Committee '10/2013 start: 5:30 pm  
stop: 6:24 pm

Attendees: Dave Kaplan, Melissa Mussen, Dan Caldwell,

Guests: Kevin Kiernan Diane Lykes

Dan Brown, Denise Lathrop, Loren Reinhold, Laura Lechies  
Peggy Volin

① Minutes approved - yes

② ICA - Laura handed out info re: the amended & restated  
solid waste interlocal

③ Nominate Dave - accepted - Melissa nominated

Draft work plan handed out & will bring forward for  
adoption at next meeting - handed out for review only at  
this time.

Amended & restated interlocal agreement - went through same point  
in pkg handed out

Reps from Shoreline, Bellevue, Renton, Issaquah

Liability = system costs, local agreement entered into in 1988

Feb 28 going out to re-fi, need signed letters expressing intent letters  
from cities - Enumclaw, Redmond,

LUCIA does not cover environmental claims - Cities are on the hook for these  
TP, new language takes the party back to hauler not city Sect 8.5

Life of Cedar Hills? - aggressive in waste reduction & recycling - goal to reach 70%  
by 2020, use resource acc'ts before getting into general funds

Current in market for looking for a safe to burn for energy

Scheduled to be back to council on January 24 -

Bring Dave w/ request to approve ICA w/ caveat that changes can  
be made -

### ③ Sewer Rate Structure Study Updates -

Loren updated met w/ going through codes - 3 prelim  
issue papers coming to next committee mtg

take to council in May for Pub Hear - Feb & April then

start p. hearing in May - tiering only single family

Multi-family is very important for rate structure - charge on

a per line basis - private looking at quality vs quantity

quality is flat rate, quantity is based on surface

single family rate a bit higher than multi-family

Westington Park - Wesley Gardens cottages vs units - might

need 4 or 5 papers to deal with multi-families & schools

charged as commercial - creosote surfaces - square footage

level & scope of service - does the Marina pay? through enterprise fund - libraries, PSE substations & hotels might be different all treated as commercial - utilities are not exempt

Private streets -

Feb - exec summary w/ 3 or more issue papers

April - go to Council

~~bring to give a committee report to council~~ - will provide all issue papers to Council

target to get unrapped up 3 mos before Dec billing

institutional properties rates are figure base between non profit

& for profit groups

structure of the rate - want to pin it down then do comp plan study, need to do analysis of the system to see what the capacity is. -

comp plan is really needed - deal w/ rate study this year & do comp plan next year - 1974 last comp plan



## Issue Paper #1: Stormwater Rate Structure November 2, 2012

### Issue:

The City of Des Moines stormwater utility rate is currently based on impervious surface area with two rate components: water quantity and water quality. Single family homes are charged a flat rate for both components based on an assumed average of 2,400 square feet of impervious surface area, commercial properties are charged a variable rate for both components based on actual impervious square footage divided by one Equivalent Billing Unit (EBU; equal to 2,400 square feet of impervious surface area), and multi-family customers are charged a flat rate for water quality on a per dwelling unit basis and a variable rate for water quantity based on actual impervious area that is calculated the same as the commercial rate.

The City has requested an evaluation to determine if the current rate structure continues to be the most appropriate for purposes of rate equity and administration. City staff indicated that newer single family homes are much larger now, and it might be reasonable to reevaluate the EBU size to ensure it remains accurate.

### Alternatives:

There are a number of rate structures which can fulfill the need for an appropriate and equitable stormwater rate.

- ♦ **Impervious surface area.** The most common basis for charging stormwater fees is impervious surface area (ISA). The term refers to hard surface area that prevents or slows water permeation into the ground. Impervious surface area is widely accepted as an appropriate measure of a property's contribution of runoff, providing a clear relationship, or "rational nexus," to service received from a stormwater program. This has been the basis of charging since the inception of the City's stormwater utility.

Rate structures based on impervious surface area require per-parcel data quantifying the applicable impervious surface area. Similar to the approach adopted by the City, stormwater utilities typically develop a uniform rate for single family residential (SFR) customers based on an estimated average amount of ISA per residential parcel to minimize administrative and data collection costs. The charge basis for all other customer types (non-SFR) is generally actual measured impervious surface area by parcel. The charge itself is most commonly calculated as a dollar amount per unit of impervious surface area, or EBU in the City's case. For the City, one impervious unit is 2,400 square feet of

ISA, with all single family residences charged for one EBU.

Note that, under this structure, while all non-SFR impervious surface area is accounted for in the monthly rate, all single family residential developments are typically assessed the same monthly fee. In so doing, in essence, some (smaller) homes are charged for impervious area that they do not have, and other (larger) homes are not charged for impervious area that they do have. This has been thought to be a worthwhile tradeoff for the added administrative burden of distinguishing among single family residences.

- ◆ **Density of development.** An alternative measurement of runoff contribution, known as density of development, can also be used. The term refers to density factors that can be applied to parcel size. Density factors may also be used in combination with actual ISA measurements to adjust charges depending on the percentage of the parcel covered by hard surface. As an adjusting factor, it is used to acknowledge that, for example, 3,000 square feet of impervious surface on a 5,000 square foot lot more directly impacts the public system than 3,000 square feet of hard surface on a one-acre lot. As with impervious surface area, density of development is an appropriate charge basis because it adequately quantifies the relationship between the rate paid and the amount of service received.
- ◆ **Runoff coefficients.** Yet another measurement of a property's contribution to stormwater impacts is the runoff coefficient. The factor is similar to density of development, but it is more closely associated with the physical characteristics of properties. When applied to lot size, runoff coefficients are generally accepted as a measure of stormwater contribution and hence, service received. Information required to charge under this basis includes basic physical characteristics of land (such as slope and soil type), land use, and lot size. Under this approach, undeveloped parcels may also be charged depending upon slope variables and soil characteristics. Runoff coefficients are typically charged either as a fee per unit of area or as an adjustment factor to impervious surface area to modify the final charge based on a parcel's runoff characteristics. In measuring contribution to stormwater runoff by evaluating property-specific characteristics that cause impacts, this approach rationally recovers the costs of several aspects of the stormwater program.
- ◆ **Land use.** Another basis that can be used to develop rates is land use. Using this fee approach, runoff characteristics are linked to types of land use. For example, empirical analysis may find that industrial land use has a more significant contribution to water quality problems from stormwater runoff than undeveloped land and therefore, should be charged a proportionately higher rate for its share of program costs.
- ◆ **Trip generation.** While the fee structures discussed above focus on

runoff contribution, trip generation as a fee basis attempts to relate automobile traffic to non-point source pollution contributed by properties. Data used to measure traffic is available from the Institute of Transportation Engineers' Trip Generation manual, which assigns a number of daily trips generated by specific categories of land use. In addition to this information, customer land uses and lot size would be required to accurately calculate rates. This fee approach would be best used to recover the costs of water quality activities within the stormwater program.

**Analysis:**

A rate may be found legally valid if the funded services generally benefit those who pay the fee. There need not be a property-specific link between the fee paid and level of service delivered. In fact, case law (*Teter v. Clark County*) has supported that a reasonable effort must be made to link services delivered to fees charged, but that the linkage need only be indirect.

Throughout the United States, impervious surface area is a widely accepted measure of contribution of runoff, providing the basis for stormwater rates in most utilities. Additionally, the "functional" nexus between impervious surface area, contribution of runoff, and increased flooding, water quality degradation, and damage to habitat is "scientifically" strong and supportable.

The following selection from *Stormwater Strategies: Community Responses to Runoff Pollution* describes this nexus clearly:

"The problem of polluted stormwater runoff has two main components: the increased volume and rate of runoff from impervious surfaces and the concentration of pollutants in the runoff. Both components are highly related to development in urban and urbanizing areas. When impervious cover (roads, highways, parking lots, and rooftops) reaches 10 and 20 percent of the area of a watershed, ecological stress becomes clearly apparent. Everyday activities, including driving and maintaining vehicles, maintaining lawns and parks, disposing of waste, and even walking pets, often cover these impervious surfaces with a coating of various harmful materials. Construction sites, power plants, failed septic systems, illegal discharges, and improper sewer connections also contribute substantial amounts of pollutants to runoff. Sediments, toxic metal particles, pesticides and fertilizers, oil and grease, pathogens, excess nutrients, and trash are common stormwater pollutants. Many of these constituents end up on roads and parking lots during dry weather only to be washed into waterbodies when it rains or when snow melts.

Together, these pollutants and the increased velocity and volume of runoff cause dramatic changes in hydrology and water quality that result in a variety of problems. These include increased flooding, stream channel degradation, habitat loss, changes in water temperature, contamination of water resources, and increased erosion and sedimentation. These changes affect ecosystem functions, biological diversity, public health, recreation, economic activity, and general community well-being. Urban stormwater is not alone in causing these impacts. Industrial and agricultural runoff are equal or greater contributors. But the environmental, aesthetic, and public health impacts of diffuse pollution will not be eliminated until urban stormwater pollution is controlled."<sup>1</sup>

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<sup>1</sup> Peter H. Lehner, George P. Aponte Clarke, Diane M. Cameron, and Andrew G. Frank, *Stormwater Strategies Community Responses to Runoff Pollution* (Natural Resources Defense Council, May 1999), xi.

In addition to increasing the deposition of pollutants, supporting scientific research shows that the impervious surface area in even moderately developed areas greatly increases peak flows to streams, while decreasing base flows. The higher peak flows cause flooding and erosion, increasing sediment deposition and damage to aquatic habitat. The lower base flows can also damage habitat.

So, the impervious surface area rate basis is widely supported and accepted. That is not to say, however, that the method with which it has been typically applied does not warrant examination.

For example, it may be beneficial to create individual distinctions or size classes for single family residential customers in those cases where there is a wide range in the amount of ISA on single family parcels.

Additionally, an ISA-based rate structure can also be enhanced by incorporating density of development – as the City does for non-SFR customers – based on the fact that more intense development more directly impacts the public stormwater system.

The runoff coefficient approach is more difficult to administer than an ISA-based charge, would require a relatively extensive data collection effort on the part of the City, and is less defensible as a fee basis, because it incorporates physical land characteristics over which the property owner has little or no control.

A land use based approach, while administratively simple compared to an ISA-based approach, is typically used only when property-specific ISA information is unavailable. Finally, trip generation, while supportable for water quality-related functions, provides little if any advantage over impervious surface area at greater administrative effort and associated cost.

**Recommendation:** We recommend that the City maintain its current stormwater rate structure that is based on impervious surface area, with single family residential customers defined as one EBU and non-SFR customer charges based on the actual measured impervious surface area per parcel. An impervious-based rate structure defines a linkage between a parcel's contribution of runoff impacting the system infrastructure and the fee that parcel pays. The fee basis creates a standard of charging that quantifies how different amounts of impervious surface area cause proportionately different impacts on the environment in terms of flooding, water quality, and habitat degradation. By recognizing that relationship, the fee structure basis proportionately charges different customers their share of the system's cost burden and provides an equitable, defensible means of cost recovery for stormwater management. This proportionality is strengthened with the addition of a tiered residential rate, however preliminary data suggests that the impact to the stormwater rate may not be sufficient to justify the expense of generating home-by-home ISA data.

Finally, we recommend that the City account for the updated average ISA per SFR home since utility inception. This could be accomplished either through an updated equivalent billing unit value or by increasing the assumed number of EBUs for single family residences. We have attached directions for sampling and measuring the average impervious surface area of single family residences that we would recommend.

# CITY OF DES MOINES

## COMPREHENSIVE STORMWATER RATE STRUCTURE STUDY

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### MEASURING THE AVERAGE IMPERVIOUS SURFACE AREA OF SINGLE FAMILY RESIDENCES

By employing GIS analysis techniques, the City can determine the average impervious surface area for single family residences and establish its equivalent service unit (EBU) definition. Based on the new EBU definition, the number of EBUs for each non-single family residential customer could be subsequently calculated.

To assist the City in determining the average impervious surface area for single family residences, FCS GROUP has developed the following preliminary work plan.

#### Proposed Approach

1. Segregate single-family residential (SFR) and non-SFR (all other) accounts in the selected billing list.
2. Number single-family residential accounts sequentially in an unused field, starting with the number 1. For example, assuming there are 7,000 single family parcels, number these parcels 1 through 7,000 in their existing order, *regardless of any other recorded numbering system*, e.g., assessor parcels number or location identification number. These numbered parcels will make up the population from which the sample will be taken.
3. Using random numbers generated in Excel<sup>2</sup> to identify parcels to be sampled, extract the following information from each sampled parcel and record it on the worksheet provided:
  - Sample number
  - Property address
  - Other common identifier (if applicable)
  - Utility billing account number
4. Continue sampling and recording data until a sample of 126 parcels has been compiled. *Note: Appendix A details the methodology used to determine the recommended sample size.*
5. Using the common parcel identifier and corresponding maps, identify each sampled parcel on the system.
6. Measure impervious surface area on each of the sampled parcels using AutoCAD or ArcView. Record measured impervious surface area on worksheet. Note any anomalies or irregularities on the worksheet, identifying the parcel(s) concerned by the sample number or common identifier.
7. Deliver completed worksheets to FCS GROUP for statistical analysis.

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<sup>2</sup> FCS GROUP can provide the random numbers if desired.

## APPENDIX A

### SAMPLE SIZE DETERMINATION

Recommended sample sizes were determined in the following manner.

For residential parcels, the sampling program is intended to verify the *average amount of impervious area per dwelling unit* in order to determine the value of an equivalent dwelling unit. In order to state with confidence that the sample is representative of the entire customer class, the sample size is determined by using a standard estimating technique.<sup>3</sup> This technique is based on: (1) the maximum probable error *B* we are willing to tolerate, (2) the expected range of responses to the sample, and (3) a desired level of confidence.

A sampling error *B* of 100 square feet was chosen for all residential customer classes because this value yields a manageable sample size, while still providing a reasonably accurate point estimate for the mean.

Assuming we wish to be 90% confident that the sample mean represents the population mean  $\pm 100$  square feet, the following formula may be used to determine sample size.

$$n = \frac{1.645 (s)^2}{B^2} ; \text{ where } B = 100, \text{ and } s = \frac{(\text{expected high} - \text{expected low})}{4}$$

If we assume that responses for single-family residences will range between 5,000 and 1,500 square feet of impervious area per unit, this formula yields a sample size of 126 developed single-family parcels.

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<sup>3</sup> Statistics for Business and Economics; S. Christian Albright; 1987.



## Issue Paper #2: Stormwater Fees for Private Streets November 2, 2012

- Issue:** The City's current practice is to charge private streets for their impervious surface area at 30 percent of the base rate, to recognize their offsetting role in stormwater conveyance. The City currently exempts publicly owned streets from the stormwater fee. The main issue in question - Should the City charge private streets a stormwater fee?
- Analysis:** Applicable statute (RCW 35.67.020 and RCW 35.92.020) grants discretion to city legislative bodies in the setting of rates and allowing for the consideration of such factors as differences in the cost and/or character of service provided and capital contributions made to the system.
- When considering how to charge different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must substantially relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance of that type of relationship when defining exemption because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.
- When a cost of service approach is used as the basis for fee evaluation, exemptions and credits should only be granted when the characteristics of a parcel or improvements to that property cause runoff to differ when compared to similar parcels.
- The City's Right-of-Way Construction Standards and Requirements apply to both private and public streets. In comparing the characteristics of the private and public streets it does not appear that the characteristics for stormwater contribution would differ in a significant way. This would indicate they should both be treated in a similar manner.
- However, the similar treatment of public streets and private streets diverges when considering the following regarding public streets: first, costs and revenues are coming from comparable "public" sources and, second, public streets can be considered part of the stormwater conveyance system. The conveyance system is a network of pipes primarily designed to intercept drainage from paved streets and transport it underground (generally under a roadway) to an open drainage way. Cities often choose to exempt their streets in recognition of the key role they play in this system.
- It is commonly thought that charging public streets simply transfers money from one City fund to another. Administratively, this may be a valid perception. However, by not charging public property, the City may

not accurately and equitably allocate what can be viewed as an overhead cost borne to support the departments that use stormwater services because of their land holdings. Effectively, utility ratepayers bear the costs of stormwater management provided to other user-supported services or the general public. This is not an issue for private streets.

Private streets do not provide such a system-wide benefit. The streets are owned by private owners, homeowners associations, or management groups that are responsible only for stormwater related to the specific development.

The stormwater fee is collected for the purpose of maintaining the City's public stormwater system. The City's stormwater conveyance system includes much more than storm drains. Ditches, curbs, gutters, culverts and open stream channels all make up the citywide drainage system that conveys stormwater runoff away from structures and sites in a manner that minimizes the potential for flooding and erosion to ALL properties. Customers always benefit from adequate, properly functioning drainage and flood control systems that decrease the likelihood of flooding, erosion, and unlimited pollutants from surface and stormwater runoff. Customers also benefit from the regulation and monitoring of the properties above and around the property. Although, the property may have its own stormwater system that complies with best management practices, these devices are not absolute and pollutants generally still exit a property depending on a number of factors such as the intensity and duration of rainfall. The stormwater runoff is still conveyed to the public drainage system.

It is more common than not that each unit of a development with common property (private streets, common driveways and parking areas) such as townhouse developments, cluster unit developments or condominiums is responsible for the pro rata share of the total impervious surfaces of the common areas of the development.

#### Alternatives:

Arguably, there might be some alternative ways to address the issue of stormwater fees for private streets, among them, (1) condominiums could be charged on a per dwelling unit basis and (2) both private streets and sidewalks could be exempted.

First, charging condominiums as residential property would require a change to all multi-family properties. The stormwater rates currently charged to multi-family properties in the City are based mainly on impervious surface area, a common industry practice. Most instances where the rate per multi-family dwelling unit is higher than the single-family residential rate are when properties have a large amount of private streets and roadways.

Charging each multi-family unit the same rate as a single-family residential customer would penalize those many multi-family units who have less impervious surface area per unit. This approach would also move away from the relationship of impervious area as an equitable basis for stormwater contribution and instead be a per unit charge for multi-family that is less related to runoff contribution.

Exempting private streets and sidewalks, is perhaps a more problematic approach. The City would require public ownership or access to the private streets and sidewalks; otherwise the exemption could be considered a gifting of public funds – prohibited by law. Any change would have to be offered to all other private streets and sidewalks for consistency. This would result in a loss of revenue for the City that would need to be met through an increase in the rate to other customers.

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On the contrary, the City has full access to public streets. Transportation improvement projects on these streets also address storm related elements and issues. The City maintains public streets to their required standards including the street sweeping program, which is not a requirement for private streets. This maintenance can also be considered stormwater conveyance system maintenance that is paid for by City streets.

**Recommendation:** Public streets should continue to be exempted from the stormwater rates as they are considered a key part of the stormwater conveyance system. Private streets should continue to be charged as non-residential property and charged a discounted stormwater fee to recognize the contribution of runoff generated by City streets, but at the same time acknowledge the benefit of City streets to the stormwater system, which is the standard approach in the industry.

The issue of charges to private streets may be addressed more equitably by quantifying the offsetting contribution and benefit to determine a more exact portion of the rate to be charged to private streets.



## Issue Paper #3: Stormwater Rate Credits January 2, 2013

### Issue:

City of Des Moines Municipal Code Section 11.12.080 provides for rate adjustments when the amount charged “was not calculated in accordance with the terms of this chapter.” When is it reasonable (or required) to provide additional rate credits / adjustments for stormwater customers who mitigate their stormwater impacts and what is a rational basis for such credits?

RCW 90.03.510 authorizes such credits, stating that:

“Whenever a county, city, town, water-sewer district, or flood control zone district imposes rates or charges to fund storm water control facilities or improvements and the operation and maintenance of such facilities or improvements under RCW 35.67.020, 35.92.020, 36.89.080, 36.94.140, 57.08.005, or 57.08.081, it may provide a credit for the value of storm water control facilities or improvements that a person or entity has installed or located that mitigate or lessen the impact of storm water which otherwise would occur.”

### Alternatives:

A review of potential credit bases / approaches reveals a number of alternatives.

- ◆ **On-site retention / detention.** Many residential subdivisions and commercial developments provide on-site retention / detention facilities as a condition of development, often maintaining such facilities as well. These facilities may serve to manage runoff only from the development in question, or they may also accommodate runoff from developed property external to the development. To the extent that such facilities reduce costs to the City utility, they may warrant a rate credit. There are several ways to structure a potential rate credit for on-site retention / detention, the following among them:
  - ◆ **Performance against current standards.** Rate credits may be structured to reward customers who provide mitigation to current development standards, while offering lesser or no credits for mitigation that does not meet current development standards.
  - ◆ **Current vs. older standards for quantity and quality management.** Quantity and quality standards have increased greatly over the years. The City could offer credits by time of development, in order to reflect the benefit received from customers who help meet this historical change in stormwater management standards.
  - ◆ **Customers covered by NPDES stormwater permits.** In order to protect the quality of receiving waters, the federal Clean Water Act

requires a National Pollutant Discharge Elimination System (NPDES) permit for stormwater generated by specific industrial activities. The NPDES permit typically requires performance standards, monitoring, and additional treatment of runoff generated by permitted industrial activities.

- ♦ **Infiltration.** For runoff that is not polluted, such infiltration is beneficial to the City as it recharges its aquifer, which contributes to the City's drinking water. Impervious surfaces, among other development features, prevent water from infiltrating the soil and replenishing the groundwater supply.
- ♦ **Low-impact development, green building, and rainwater harvesting.** Low-impact development (LID) techniques, such as rainwater harvesting, permeable paving, open space retention, bioretention swales and rain gardens could also be worthy of credits. Other aspects of LID – such as green “vegetated” roofs – may affect the “effective” impervious area of a development or home if properly maintained.

Green building is home (or other) construction that incorporates green infrastructure techniques into new developments. Techniques include site planning to take greater advantage of natural site features, achieving LEED or Built Green certification, planting drought-resistant native landscaping, amending soils with compost, reducing impervious surface area, minimizing site disturbance during development, and previously noted low-impact development features. Implementing these techniques will result in increased natural resource conservation, lower home operating costs, and better stewardship of the City's drinking water aquifer.

Rainwater harvesting reduces the amount of water that infiltrates the soil and therefore reduces the amount of water that recharges the City's aquifer. However, it also benefits the stormwater system (and thereby, the City's receiving waters) by reducing runoff volumes – to the extent that stored water is consumed throughout the year, which requires dual plumbing inside buildings for non-potable water.

- ♦ **Dedicated open space.** Developments incorporate design techniques that concentrate residences or other buildings in a compact area of the development site (lot clustering) and provide open space and natural areas elsewhere, protected by an easement. Such techniques can reduce runoff, mitigate stormwater quality, and help maintain the amount of water recharging the City's aquifer.

**Analysis:**

When considering how to charge, or credit, different types of customers, it is important to remember that a stormwater rate is a fee for service, not a tax. As such, the level of a customer's charge must somewhat relate to that customer's proportionate share of the utility's costs. In terms of equity and legal defensibility, it is important to recognize the significance

of that type of relationship when defining exemption or credit policies because such policies could potentially move a utility away from the rational linkage between service delivered and the amount of the fee.

As a second general consideration, it is important to recognize that on-site mitigation may or may not reduce the utility's cost of providing service. In fact, it may be argued that the cost of meeting City standards and constructing on-site mitigation should be considered a "cost of doing business," since on-site mitigation only partially neutralizes the impact of developing the property in the first place. On the other hand, constructing on-site facilities with extra accessible capacity as a condition of development does reduce the utility's costs. The amount of credit for such oversizing, if consistent with City goals, could be determined by the extent to which the on-site facility exceeds minimum requirements.

### ***On-site Retention / Detention Credits***

Properties with on-site mitigation facilities have a reduced impact on the public system compared to similar property lacking mitigation. However, it is debatable that meeting the City's development standards reduces costs for the utility. Instead, it may simply keep the utility whole. As a result, granting a rate credit for such activities could actually reduce the amount of resources available for basic services to the remainder of the customer base.

**Note:** The only example known to us of a rate structure that distinguishes by the time of development and associated development standards is the City of Olympia. Olympia charges slightly less for residential development approved after 1990, with a signed maintenance agreement. Nonresidential development is subject to three rate tiers: the highest rate (\$9.97 per billing unit) is applied to developed property permitted before 1980; the next rate (\$7.75 per BU) is applied to developed property permitted between 1980 and 1990; and the lowest rate (\$3.71 per BU) is applied to developed property permitted after 1990.

### ***Customers Covered by Individual NPDES Stormwater Permits***

Under the NPDES permitting program, the specific stormwater detention and treatment measures that are required vary from permittee to permittee. Furthermore, industrial sites, which typically are subject to NPDES permitting requirements, are exempt from the program if 100% of their stormwater runoff is detained and treated.

As a result, the fact that a development is subject to NPDES permitting requirements may not tell the whole story regarding the stormwater mitigation measures it must incorporate. In the consideration of granting credits for individual permittees, it is important to remember that the City could instead provide credits for customers providing qualifying on-site mitigation including detention, treatment, and infiltration.

Among the minority of municipal stormwater utilities that do grant credits for customers with individual NPDES permits, a sample showed that applicable rate credits ranged from 10% to 80%.

### ***Infiltration***

Customers that infiltrate their runoff benefit both the City's drinking water system, by recharging the aquifer, and the City's stormwater system and receiving waters, by reducing the required size of system facilities. However, allowing infiltration also requires that the City work with owners to reduce contamination risks from such systems. Also, not all stormwater is infiltrated; instead, infiltration systems are still connected to the public system via overflow piping. New systems are only allowed to infiltrate from non-pollution generating surfaces.

### ***Low-Impact Development, Green Building, and Rainwater Harvesting***

A credit for low-impact development would recognize the cost of LID techniques and the significant cost of maintaining the alternative materials that are utilized in such developments, in addition to the fact that their effective impervious area can be much smaller than the impervious surface area that is measured from aerial photographs (due to roof rainwater collection systems, permeable paving, vegetated roofs, etc.). An LID credit may be further supported by the fact that even when the effective impervious area of such a development is the same as other, conventional residential developments, other LID practices such as vegetation replacement typically result in reduced runoff from the property.

Other than its LID aspects, green building techniques are not strongly linked to a reduction in stormwater utility costs. The one aspect that is directly related to smaller service requirements is the minimization of impervious surface area.

Although rainwater harvesting reduces the amount of water that replenishes the aquifer, there should be a one-for-one tradeoff with the customer's reduced demand on the drinking water supply. Additionally, harvested rainwater may actually protect the aquifer from runoff contamination, to the extent that collected runoff is treated and consumed by the customer as opposed to being applied as gray water or remaining unused and eventually dumped.

### ***Dedicated Open Space***

Open space developments have many benefits in comparison to the conventional subdivisions that they replace: they can reduce impervious surface area (ISA), stormwater pollutants, construction costs, grading, and the loss of natural areas. In addition to the minimization of ISA, the preserved natural areas and tree canopy can significantly mitigate the stormwater runoff created by the buildings on site. Therefore, although affected by the slope characteristics of the property, the preserved portion of the site acts to reduce the effective impervious area of the development

and provides a meaningful benefit to the public system when runoff is adequately dispersed. This benefit is difficult to quantify; accordingly, there is little basis for credit eligibility.

**Recommendation:** Many of the stormwater program's costs are essentially "fixed" and do not decrease no matter what services customers provide on-site. As a first step, we recommend that the City determine the portion of program costs which can be reduced by the on-site activities of the customer base. We further recommend that the City classify the portion of those variable or use related costs as either attributable to managing water quantity or to managing water quality.

Once an allocation of program revenue requirements among fixed or base program costs, water quantity costs, and water quality costs has been made, their component shares of the stormwater utility charge can be determined. All customers would pay the base rate component. However, credits would be made available for the water quantity and quality components depending on on-site activities. (Customers with on-site features that result in reduced runoff – such as those that infiltrate or practice low-impact development – would be eligible for a rate credit that would vary in size based on the level of mitigation, not to exceed the sum of the quantity and quality components of the charge.)

#### *Quantity Credits*

Customers with on-site quantity controls, such as detention or infiltration facilities, provide a direct benefit to the utility by reducing peak flow and thereby reducing the necessary size of system pipes downstream.

In the case of customers that infiltrate their runoff, not only is peak flow reduced, but their total runoff is reduced or eliminated (to the extent there is capacity). Given this, we recommend that a full credit for the quantity-related portion of the utility bill be granted to customers that have capacity to infiltrate the current design storm size. Customers with less infiltration capacity than for the design storm size should receive a minimal quantity credit.

Detention facilities, on the other hand, do not prevent runoff from entering the public system. Instead, peak stormwater flows are simply reduced and extended over a longer duration. For that reason, customers that are able to detain to current standards should receive a quantity-related credit that is less than a full credit for this portion of the bill. Customers with less detention capacity than for the design storm size should receive a minimal credit for the quantity component of the bill.

Additionally, there are several development methods which incorporate features that mitigate stormwater runoff. Such features that reduce peak flows or prevent stormwater runoff from entering the public system include aspects of low impact developments, green building methods, and rainwater harvesting. On their own, such development features provide a quantity mitigation benefit that is typically less than dedicated detention

facilities sized for the design storm. Accordingly, quantity-related mitigation should be eligible for a minimal credit against the quantity rate component. However, when paired with detention facilities sized for the design storm, customers should receive a full credit against the quantity rate component.

**Note:** For crediting purposes, we recommend that the eligibility of rainwater harvesting systems for credit be conditioned upon inspections to ensure regular use of the harvested water (due to the fact that, once collection cisterns are full, they no longer reduce runoff). Also, the system benefit provided by customers with quantity-mitigating development features is dependent upon proper maintenance of the on-site features, so we further recommend that they be subject to regular inspection in order to renew the credit every two years.

Customers that discharge their runoff directly into flow-exempt receiving waters where detention is not required (in Des Moines, these include Puget Sound and Green/Duwamish River below RM 6 and above SR 18) perform another type of quantity mitigation. There are two types of such customers: those that utilize private systems to convey their runoff to receiving waters, and those that utilize the City's stormwater system, in whole or in part, to convey runoff to receiving waters. As customers of the first type are equivalent to customers with on-site detention facilities sized for the design storm, we recommend that they be granted the maximum detention credit for the quantity component of the utility fee. For customers of the second type, we recommend that a minimal credit for the quantity component be granted, to account for the use of and cost of maintaining the City infrastructure relied upon by the customer.

No credit or adjustment should be granted to customers without meaningful quantity mitigation capability.

### ***Quality Credits***

There are a number of factors, in addition to the installation of on-site quality controls, which relate to a customer's ability to manage the quality of their stormwater runoff. The most important of these are controls for on-site sources of pollution. Examples of source controls would be roofs and coverings for pollution-generating surfaces, equipment, and materials.

To meet the City's stormwater quality mitigation requirements, a customer must have on-site quality controls as well as source controls. Accordingly, a full credit for the quality-related portion of the utility bill should only be granted to customers that provide on-site quality mitigation and source controls that meet current standards.

Even in those cases where full mitigation capability is not present, on-site quality control facilities and source control measures can still provide a benefit to the City's stormwater system. Accordingly, we recommend that a minimal credit to the quality portion of the stormwater utility bill be provided to customers that, while not meeting current requirements, do

maintain a basic treatment capacity on-site and/or implement some source control measures.

No credit should be granted to customers that have no on-site quality controls or provide only nominal quality mitigation (such as a downturned elbow to control floatables).

***Other Credits***

Customers with individual NPDES stormwater permits should be eligible for the same rate credits as any other non-residential customer. No dedicated credit for simply possessing a permit should be established.

Please note that the percentage or number of impervious units that will obtain quantity, quality, and/or runoff reduction credits will be forecasted and incorporated into the current rate analysis to ensure adequate revenue generation under the proposed program.

## **Peggy Volin**

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**From:** Loren Reinhold  
**Sent:** Friday, January 11, 2013 9:02 AM  
**To:** Peggy Volin  
**Subject:** 1/10 Environment Committee minutes

Loren updated the committee on the status of the Rate Structure Study. He mentioned that the consultant (FCS Group) has completed their review of the City's rate ordinances and is presently reviewing the billing system for inconsistencies. The consultant has also prepared three issue papers that will be available for committee review at the February 14 committee meeting. The three issue papers concern the rate structure, private streets, and stormwater rate credits. Regarding the rate structure issue paper, Loren mentioned that the consultant will be reviewing the equivalent billing unit and the potential use of a tiered rate system for residential properties.

Dave K. asked if the consultant is also reviewing the rate structure for multifamily properties. Loren mentioned that the water quality component of the multifamily rate is being looked at but the method of calculation was not being reviewed. Loren mentioned that for most multifamily properties, on a per unit basis, were less than that of a single family home given the per unit charge of the water quality component and that the average impervious area per unit was less than 1 equivalent billing unit. The committee directed staff to add a fourth issue paper to specifically address the multifamily properties to ensure that the present methodology is equitable to other properties.

Dave K. asked if the consultant is reviewing how the rates are applied to public institutions such as utilities, schools, colleges, etc. Loren mentioned that presently the non-profit rate (which is the same as commercial rate) is applied to all institution type properties. He also mentioned that few SWM utilities exempt these type of properties but if done, it is mostly public parks or government properties. The committee directed staff to add a fifth issue paper to address the SWM rate as it applies to public institutions.

The committee then discussed the schedule for the study, that once the issue papers have been reviewed on February 14 and comments incorporated, the papers would be distributed to the rest of the Council. The rate report and final draft issue papers as well as a draft ordinance is scheduled for review at the April Committee meeting. Pending on the outcome of the April meeting, the rate study and ordinance would go to Council in May or June allowing sufficient time for King County to alter the billing system for next year.

### ***Loren Reinhold, P.E.***

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## **Peggy Volin**

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**From:** Laura Techico  
**Sent:** Friday, January 11, 2013 8:36 AM  
**To:** Peggy Volin  
**Subject:** RE: Meeting

Kevin Kiernan (you were correct on spelling)  
Assistant Director, King County Solid Waste Division

Diane Yates  
Intergovernmental and Legislative Liaison  
King County Solid Waste Division

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**From:** Peggy Volin  
**Sent:** Friday, January 11, 2013 8:33 AM  
**To:** Laura Techico  
**Subject:** FW: Meeting

Oops....I forgot – both their titles too or at least who they work for please.

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**From:** Peggy Volin  
**Sent:** Friday, January 11, 2013 8:32 AM  
**To:** Laura Techico  
**Subject:** Meeting

Morning Laura,

Can you please tell me if I have Kevin's name spelled correctly? Kevin Kiernan?? I have Diane Yates, but unsure on how to spell Kevin's last name and this is just a guess –

Thanks -

***Peggy Volin***

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## Peggy Volin

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**From:** Laura Techico  
**Sent:** Friday, January 11, 2013 9:50 AM  
**To:** Peggy Volin  
**Subject:** RE: ILA Regarding King County Landfills.docx

I would also mention the interim timeline of 1/31/13 for cities to sign a Non-Binding Statement of Interest in signing the ILA.

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**From:** Peggy Volin  
**Sent:** Friday, January 11, 2013 9:46 AM  
**To:** Laura Techico  
**Subject:** ILA Regarding King County Landfills.docx

<< File: ILA Regarding King County Landfills.docx >>

Can you take a minute and look at what I am putting in the minutes for your portion of the meeting last night and see if this sounds about right. Please feel free to made any additions, changes and let me know.

Thanks -