

TG 110815

April 20, 2011

Mr. David Danner, Executive Director and Secretary  
Washington Utilities and Trade Commission  
P.O. Box 47250  
Olympia, WA 98504-7250

2011 APR 25 AM 8:10



RE: INTENT TO EXERCISE JURISDICTION OVER SOLID WASTE SERVICES IN THE KIRKLAND  
JUANITA, FINN HILL, KINGSGATE, AND WILD GLEN ANNEXATION AREAS

Dear Mr. Danner,

Please accept this letter as notification, pursuant to RCW 35A.14.900, that the City of Kirkland intends to contract for solid waste services in the Juanita, Finn Hill, Kingsgate, and Wild Glen annexation areas. Please find enclosed for your records City of Kirkland annexation Ordinance 4229 and Ordinance 4296 as adopted by the Kirkland City Council on December 15, 2009 and April 5, 2011, respectively. The effective date of the annexations is June 1, 2011.

Waste Management, Inc. (WMI) currently provides service to approximately 400 annexation area customers under WUTC Certificate G-237. The current WMI service area is highlighted in green in the attached *Annexation Area Map*. Republic Services (Allied Waste/Rabanco) currently provides service to approximately 8,500 annexation area customers under WUTC Certificate G-12. The current Republic Services service area is highlighted in blue and red in the attached *Annexation Area Map*. After this cancellation of these contracts by operation of law as provided in RCW 35A.14.900, the following contracts will be given to WMI to provide service throughout the entire annexation area.

Waste Management Customer Transition

Effective June 1, 2011, WMI will begin to provide service to their existing customers in the annexation area pursuant to *Section 2.1.2 Annexation* (attached) of its current 2003 Comprehensive Garbage, Recyclables, and Organics Collection Contract with the City of Kirkland. Effective July 1, 2011, these customers will be provided service by WMI under the terms and conditions of its new 2011 Comprehensive Garbage, Recyclables, and Compostables Collection Agreement with the City of Kirkland which will remain in effect for seven years as required by law.

Republic Services (Allied Waste/Rabanco) Customer Transition

Effective on June 1, 2011, Republic Services will begin to provide service to their existing customers in the annexation area on the terms provided by WUTC Certificate G-12 as contemplated by the "4 Party Agreement" (attached) as negotiated and allowed by that agreement. In lieu of continuing to provide service for the statutorily allowed period of time, pursuant to the 4-Party Agreement, Republic Services has agreed to transfer their customers to WMI for a lump sum cash payment and other consideration after June 30, 2011. Effective on July 1, 2011, WMI will begin to provide service to Republic Services customers in the annexation area pursuant to the terms and conditions of the 4-Party Agreement and *Section 2.1.2 Annexation* (attached) of its new 2011 Comprehensive Garbage, Recyclables, and Compostables Collection Agreement with the City of Kirkland, which as the substitute for Republic Services will remain in effect for seven years as required by law.

If you have any questions, please do not hesitate to contact me at (425) 587-3804 or via email at [jmacgillivray@kirklandwa.gov](mailto:jmacgillivray@kirklandwa.gov).

Sincerely yours,

A handwritten signature in blue ink, appearing to read "John MacGillivray".

John MacGillivray  
Solid Waste Coordinator  
City of Kirkland

Enclosures (8): RCW 35A.14.900  
City of Kirkland Ordinance #4229  
City of Kirkland Ordinance #4296  
Juanita, Finn Hill, and Kingsgate Legal Description  
Annexation Area Map  
*Section 2.2.1 Annexation* - 2003 Kirkland/WMI Comprehensive, Recyclables, and  
Organics Collection Contract  
4-Party Agreement  
*Section 2.2.1 Annexation* – Kirkland/WMI Comprehensive Garbage, Recyclables, and  
Compostables Collection Agreement

CC: Ray Steiger, P.E., Interim Public Works Director  
Robin Jenkinson, Kirkland City Attorney  
Mary Evans, Director Public Section Services, Waste Management  
Jeff McMahon, District Manager, Waste Management

## RCW 35A.14.900

# **Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed — Regulation of solid waste collection.**

The annexation by any code city of any territory pursuant to this chapter shall cancel, as of the effective date of such annexation, any franchise or permit theretofore granted to any person, firm or corporation by the state of Washington, or by the governing body of such annexed territory, authorizing or otherwise permitting the operation of any public utility, including but not limited to, public electric, water, transportation, garbage disposal or other similar public service business or facility within the limits of the annexed territory, but the holder of any such franchise or permit canceled pursuant to this section shall be forthwith granted by the annexing code city a franchise to continue such business within the annexed territory for a term of not less than seven years from the date of issuance thereof, and the annexing code city, by franchise, permit or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm or corporation to adequately service said annexed territory at a reasonable price: PROVIDED, That the provisions of this section shall not preclude the purchase by the annexing code city of said franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm or corporation whose franchise or permit has been canceled by the terms of this section shall suffer any measurable damages as a result of any annexation pursuant to the provisions of the laws above-mentioned, such person, firm or corporation shall have a right of action against any code city causing such damages.

After an annexation by a code city, the utilities and transportation commission shall continue to regulate solid waste collection within the limits of the annexed territory until such time as the city notifies the commission, in writing, of its decision to contract for solid waste collection or provide solid waste collection itself pursuant to RCW [81.77.020](#). In the event the annexing city at any time decides to contract for solid waste collection or decides to undertake solid waste collection itself, the holder of any such franchise or permit that is so canceled in whole or in part shall be forthwith granted by the annexing city a franchise to continue such business within the annexed territory for a term of not less than the remaining term of the original franchise or permit, or not less than seven years, whichever is the shorter period, and the city, by franchise, permit, or public operation, shall not extend similar or competing services to the annexed territory except upon a proper showing of the inability or refusal of such person, firm, or corporation to adequately service the annexed territory at a reasonable price. Upon the effective date specified by the code city council's ordinance or resolution to have the code city contract for solid waste collection or undertake solid waste collection itself, the transition period specified in this section begins to run. This section does not preclude the purchase by the annexing city of the

franchise, business, or facilities at an agreed or negotiated price, or from acquiring the same by condemnation upon payment of damages, including a reasonable amount for the loss of the franchise or permit. In the event that any person, firm, or corporation whose franchise or permit has been canceled by the terms of this section suffers any measurable damages as a result of any annexation pursuant to this chapter, such person, firm, or corporation has a right of action against any city causing such damages.

[1997 c 171 § 3; 1967 ex.s. c 119 § [35A.14.900](#).]

## **Notes:**

**Severability -- 1997 c 171:** See note following RCW [35.02.160](#).

ORDINANCE NO. 4229

AN ORDINANCE OF THE CITY OF KIRKLAND ANNEXING CERTAIN TERRITORY REFERRED TO AS THE FINN HILL, KINGSGATE AND NORTH JUANITA ANNEXATION AREA; PROVIDING THAT THE PROPERTY IN THE ANNEXATION AREA BE ASSESSED AND TAXED AT THE SAME RATE AND ON THE SAME BASIS AS OTHER PROPERTY WITHIN THE CITY OF KIRKLAND, BUT WITHOUT THE ASSUMPTION OF VOTER-APPROVED INDEBTEDNESS; ADOPTING ZONING REGULATIONS; AND FIXING THE EFFECTIVE DATE OF THE ANNEXATION.

WHEREAS, on April 7, 2009, the City Council of the City of Kirkland passed Resolution R-4751 which directed the City Clerk to file a notice of intent to annex the Finn Hill, Kingsgate and North Juanita Annexation Area with the King County Boundary Review Board; and

WHEREAS, the Boundary Review Board held a public hearing on the proposed annexation on June 8, 2009, and approved the annexation on July 9, 2009; and

WHEREAS, after two public hearings, the City Council adopted zoning for the Finn Hill, Kingsgate and North Juanita Annexation area as provided in Ordinance 4196; and

WHEREAS, the City Council passed Resolution R-4763 calling for an election which was held pursuant to State statute; and

WHEREAS, the King County Council has transmitted a certified abstract of the vote in the November 3, 2009, general election; and

WHEREAS, the annexation of the Finn Hill, Kingsgate and North Juanita Annexation area and the adoption of the proposed zoning regulation was approved by a majority of the voters residing in the area and voting on the annexation proposition, but the assumption of voter-approved indebtedness was not approved by a sufficient vote; and

WHEREAS, the City Council passed Resolution R-4791 accepting the annexation without the assumption of voter-approved indebtedness as authorized in RCW 35A.14.085;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Annexation of Property. All property within the Finn Hill, Kingsgate and North Juanita Annexation Areas, the boundaries of which are attached and incorporated as Exhibit A to this Ordinance, is annexed to and made a part of the City of Kirkland.

Section 2. Taxation. All property within the Finn Hill, Kingsgate and North Juanita Annexation Area annexed by this Ordinance shall be assessed and taxed at the same regular property tax rate and on the same basis as other property within the City of Kirkland. However, voter-approved indebtedness of the City outstanding as of the effective date of the annexation shall not be assumed by the property within the Finn Hill, Kingsgate and North Juanita Annexation Area annexed by this Ordinance, nor shall excess property taxes for payment of any such indebtedness be levied against property within that annexed area.

Section 3. Zoning. The property with the Finn Hill, Kingsgate and North Juanita Annexation Area shall be subject to the zoning regulations and zoning map established in Ordinance 4196.

Section 4. Effective date of annexation. The effective date of the annexation of the Finn Hill, Kingsgate and North Juanita Annexation Area shall be effective on June 1, 2011.

Section 5. The City Clerk shall file a certified copy of this Ordinance with the King County Council and the King County Elections Director.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective date of ordinance. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2009.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

ORDINANCE No. 4296

AN ORDINANCE OF THE CITY OF KIRKLAND ANNEXING CERTAIN TERRITORY PURSUANT TO RCW 35A.14.480 ON THE TERMS PROVIDED IN THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND, KING COUNTY FIRE PROTECTION DISTRICT #41 AND KING COUNTY REGARDING THE ANNEXATION OF THE WILD GLEN AREA; AND FIXING THE EFFECTIVE DATE OF THE ANNEXATION.

WHEREAS, in 2009 the City of Kirkland ("City") annexed the Juanita/Finn Hill/Kingsgate territory ("JFK Annexation") and provided an effective date for that annexation, which is currently set for June 1, 2011; and

WHEREAS, the Wild Glen condominium complex area ("Wild Glen") would be the only territory remaining to be serviced by King County Fire Protection District #41 ("District") after the City's annexation of the rest of the District's territory and the City, District and King County ("County") therefore believe Wild Glen should be annexed to the City; and

WHEREAS, RCW 35A.14.480 authorizes the City, District and County to enter into an interlocal agreement to effect annexation of unincorporated areas within a fire district to a city on the terms therein contained; and

WHEREAS, to initiate the process of negotiating such an interlocal agreement, the City gave notice to the District and the County of its interest in doing so, which occurred on October 26, 2010; and

WHEREAS, the County and District each agreed negotiations for the annexation of Wild Glen by interlocal agreement should begin by letters dated November 12, 2010, and December 2, 2010, respectively; and

WHEREAS, the City, District and County concluded those negotiations and presented the Interlocal Agreement between the City of Kirkland, King County Fire Protection District #41 and King County Regarding the Annexation of the Wild Glen Area ("Agreement") to their governing bodies for approval; and

WHEREAS, those governing bodies approved the Agreement and authorized the signing thereof by their respective representatives,

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Annexation of Property. All property within Wild Glen, the boundaries of which are described below, is annexed to and made a part of the City.

That portion of Section 19, Township 26 North, Range 5 East W.M. in King County, Washington described as follows:

Beginning at the northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 19; Thence east along the north line of said Section 19 and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225 to the west margin of 100<sup>th</sup> Avenue NE; Thence south along the west margin of 100<sup>th</sup> Avenue NE to the northerly margin of Simonds Road Northeast; Thence northwesterly along the northerly margin of Simonds Road Northeast to the west line of said Northeast Quarter of the Northeast Quarter of Section 19 and the limits of the City of Bothell as established by City of Bothell Ordinance Number 960; Thence north along said west line to the Point of Beginning.

Section 2. Taxation. All property within Wild Glen annexed by this Ordinance shall be assessed and taxed at the same regular property tax rate and on the same basis as other property within the City. Voter-approved indebtedness of the City outstanding as of the effective date of the annexation shall not be assumed by the property within Wild Glen by this Ordinance, nor shall excess property taxes for payment of any such indebtedness be levied against property within that annexed area. However, consistent with Ordinance 4229, a portion of the District levy associated with outstanding debt of the District will remain in place until that debt is retired.

Section 3. Zoning. The property within Wild Glen shall be subject to the zoning regulations and zoning map established in Ordinance 4196.

Section 4. Transition. To the extent applicable, the transition to services being provided to Wild Glen by the City instead of the County will be done in accordance with the Interlocal Agreement between the City of Kirkland and King County relating to the Annexation of the Juanita-Finn Hill-Kingsgate Annexation Area now being negotiated by the City and County.

Section 5. Effective date of annexation. The effective date of this Wild Glen annexation shall be on the same day as the effective date of the JFK annexation but immediately thereafter, which is currently set for June 1, 2011.



Section 6. The City Clerk shall file a certified copy of this Ordinance and other documentation as required by law with the King County Council, Treasurer and Assessor; the state Office of Financial Management and Department of Revenue, and as otherwise required by law.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective date of ordinance. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication.

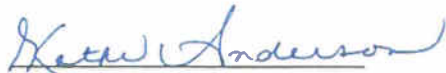
Passed by majority vote of the Kirkland City Council in open meeting this 5th day of April, 2011.

Signed in authentication thereof this 5th day of April, 2011.



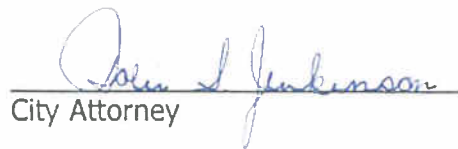
MAYOR

Attest:



City Clerk

Approved as to Form:



City Attorney

City of Kirkland  
Legal Description – Finn Hill, North Juanita, Kingsgate Annexation

Triad Job No 09-033  
March 24, 2009  
Revised March 31, 2009  
Revised May 13, 2009

That portion of Sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30 and 31 Township 26 North, Range 5 East W.M. and Sections 13, 23, 24, 25, 26 and 36 Township 26 North, Range 4 East W.M. in King County, Washington described as follows:

Beginning at North Quarter Corner of Section 28, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northwest Quarter of said Section 28 ( said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132<sup>nd</sup> Street) to the corner common to Sections 28 and 29, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northeast Quarter of said Section 29 ( said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132<sup>nd</sup> Street) to the centerline of 116<sup>th</sup> Avenue NE right of way;

Thence southerly along the centerline of 116<sup>th</sup> Avenue NE right of way to the easterly extension of the south margin of the NE 132<sup>nd</sup> Street right of way;

Thence westerly along said south margin and the south margin of the NE 131<sup>st</sup> Way right of way (said south margins being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the west line of east half of Section 30, Township 26 North, Range 5 East, W.M.;

Thence south along said west line (said west line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the north line of the southeast quarter of the northwest quarter of said Section 30;

Thence west along said north line (said north line being the north boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to the west line of east 275 feet of said southeast quarter of the northwest quarter;

Thence south along said west line (said west line being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to south line of said southeast quarter of the northwest quarter;

Thence along said south line to the east margin and/or the northerly extension of the east margin of 91<sup>st</sup> Avenue NE (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121);

Thence south along said east margin and/or its northerly extension (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121) to the south margin of NE 120<sup>th</sup> Street;

Thence east along the south margin of NE 120<sup>th</sup> Street and/or its easterly extension to the west limits of the City of Kirkland as established by King County Ordinance No. 15471;

Thence south along said west limits to the southerly margin of Juanita Drive NE right of way;

Thence along said southerly margin to the west line of Juanita Bay Condominiums (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062);

Thence southerly and southeasterly along the said west line and its southerly extension (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the outer limits of the second class shorelands of Lake Washington;

Thence leaving said city limits, southwesterly and northwesterly along said outer limits to North line of King County Short Plat Number 985037 (Alteration), recorded under Recording Number 911180963,



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records of King County, Washington and the limits of the City of Kenmore as established by King County Ordinance No. 12815;

Thence along said limits of the City of Kenmore the following courses:

Thence easterly along the North line of said King County Short Plat and the North line of Lot 2, King County Short Plat Number 273020, recorded under Recording Number 7601230425 records of King County, Washington to the west margin of 62nd Avenue Northeast;

Thence southerly along said margin to the north line of the Southeast Quarter of Section 23, Township 26 North, Range 4 East, W.M.;

Thence easterly along said north line to the east margin of 62nd Avenue Northeast;

Thence southerly along the east margin of 62nd Avenue Northeast to the point of intersection with the north line of King County Short Plat Number 376072, recorded under Recording Number 7607290790, records of King County, Washington;

Thence easterly along the north line of said King County Short Plat and the north line of King County Short Plat Number 682031, recorded under Recording Number 8404240701 and King County Short Plat Number S89S0226, recorded under Recording Number 8908311935. all in records of King County, Washington, to the westerly margin of Holmes Point Drive Northeast;

Thence northerly and easterly along said margin to the westerly margin of Juanita Drive Northeast;

Thence northerly along the westerly margin of said Juanita Drive Northeast to the point of intersection with the westerly extension of the north margin of Northeast 143rd Street;

Thence easterly along said extended line and the north margin at Northeast 143rd Street and the north margin of Northeast 145th Street to the intersection with the Westerly margin of 92nd Avenue Northeast;

Thence northerly along said margin to the intersection with the northeasterly margin of Simonds Road Northeast, said margin also being the limits of the City of Bothell as established by City of Bothell Ordinances 225, 227 and 960;

Thence southeasterly along the southerly limits of the City of Bothell and the northeasterly margin of Simonds Road Northeast to the west margin of 100<sup>th</sup> Avenue NE;

Thence north along said west margin to the north line of Section 19, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225;

Thence east along said north line and the south limits of the City of Bothell to the Northeast Corner of said Section 19;

Thence east along the north line of Section 20, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 1220 to the southerly prolongation of the east margin of 100<sup>th</sup> Avenue NE and the easterly limits of the City of Bothell as established by City of Bothell Ordinance Number 1220;

Thence north along said southerly prolongation and easterly limits of Bothell to the north margin of NE 145<sup>th</sup> Street;

Thence leaving said city limits, east along said north margin to the southerly prolongation of the west line of the plat of Norway View according to the plat thereof recorded in Volume 125 of Plats at Pages 77 and 78, records of King County, Washington;

Thence north along said southerly prolongation to the north margin of NE 145th Street;

Thence east along said north margin and its easterly extension to the southeasterly margin of Juanita-Woodinville Way NE;



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Thence southerly along said southeasterly margin to the north margin of NE 145<sup>th</sup> Street;

Thence east along said north margin to the east line of the plat of Windsor Vista No. 1 according to the plat thereof recorded in Volume 81 of Plats, at pages 70 and 71, records of King County, Washington;

Thence southerly along the southerly prolongation of said east line to the south line of Section 17, Township 26 North, Range 5 East, W.M.;

Thence east along said south line to the easterly margin of Primary State Highway No. 1 (SR-405) as depicted on the Record of Survey recording in Book 182 of Surveys, at Pages 251 through 259, records of King County, Washington;

Thence north along said easterly margin to the south line of a tract land conveyed to King County by the State of Washington by instrument recorded under 8603110513, records of King County, Washington;

Thence east along the south line of said tract to the east line of said tract;

Thence north along the east line of said tract to the southwesterly margin of the City of Seattle Tolt River Pipeline Right of Way;

Thence southeasterly along southwesterly margin to the west margin of NE 124<sup>th</sup> Avenue NE and west limits of the City of Woodinville as established by King County Ordinance No. 10306;

Thence along said limits of the City of Woodinville the following courses:

Thence south along said west margin to the intersection of the westerly extension of the south boundary of Kingsgate Highlands, Division No. 5, recorded in Volume 88 of Plats, Pages 1 to 5, Records of King County, Washington;

Thence east along said westerly extension and said south boundary to the southeast corner of said plat of Kingsgate Highlands Division 5;

Thence north along the east boundary thereof to the southwest corner of the plat of Kingsgate Vista, recorded in Volume 107 of Plats, pages 52 and 53, records of King County, Washington;

Thence east along the south boundary of said plat of Kingsgate Vista and its easterly projection to the West margin of 132<sup>nd</sup> Ave NE;

Thence southerly along said west margin of 132<sup>nd</sup> Avenue NE to the westerly extension of the south margin of NE 143<sup>rd</sup> street;

Thence easterly along said westerly extension and south margin thereof to the west line of the Puget Sound Power and Light Co. transmission line easement as located in the NW 1/4 of the NW 1/4 of Section 22, Township 26 North, Range 5 East W.M.;

Thence south along said west line to the south line of the NW 1/4 of Section 22, Township 26, North Range 5 East W.M.;

Thence easterly along said south line to the NW corner of the NE 1/4 of the NE 1/4 of the S W 1/4 of said Section 22;

Thence south to the SW corner of the NE 1/4 of the NE 1/4 of the SW 1/4 of said Section 22;

Thence east along the south line thereof to the North-South centerline of Section 22;

Thence north along said North-South centerline to the center of said Section 22;

Thence west along the East-West centerline thereof 310 feet, more or less, to the SW corner of Tax Lot No. 108 in the SE 1/4 of the NW 1/4 of said Section 22;

Thence N 7° 10' 00" W along the west line of said Tax Lot 108, 380 feet, more or less, to the NW corner thereof;



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Thence N 77°15'00" E along the northerly line of said Tax Lot 108 to the westerly margin of the Burlington Northern Railway right-of-way (also known as Northern Pacific Belt Line);

Thence southerly along said westerly margin to the south line of the NE 1/4 of said Section 22;

Thence east along the south line of the NE 1/4 of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch) and an angle point in the limits of the City of Woodinville;

Thence leaving said limits of the City of Woodinville and continuing along the south line of NE 1/4 of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch)

Thence south along said easterly margin to the south margin of NE 124<sup>th</sup> Street;

Thence westerly to the northeast corner of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 1030;

Thence west along the north line of the tracts of land annexed to the City of Redmond by City of Redmond Ordinance Numbers 1030 and 966 to the west line of the east 3/4 of the Northwest 1/4 of the Southwest 1/4 of Section 27, Township 26 North, Range 5 East, W.M.

Thence south along said west line and the west line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 966 to the south line of the said Northwest 1/4 and the north line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 778;

Thence west along said south line and said limits of the City of Redmond to the easterly margin of Seattle Water Department Eastside Supply Line right-of-way and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 3063;

Thence north along said easterly margin and said limits of the City of Kirkland to the south margin of NE 124<sup>th</sup> Street;

Thence westerly along said right of way and said limits of the City of Kirkland to the northerly tangent point of the southerly margin of said right-of-way with the westerly margin of the Slater Avenue NE right of way;

Thence northwesterly perpendicular to the centerline of NE 124<sup>th</sup> Street right-of-way to the southerly line of a tract of land annexed to the City of Kirkland by City of Kirkland Ordinance No. 2545;

Thence northeasterly along said southerly line to the southeast corner of said tract of land;

Thence northerly along east line of said tract of land to the northeast corner thereof;

Thence west along said north line of said tract of land to the west line of the northeast quarter of the northeast quarter of Section 28, Township 26 North, Range 5, W.M. and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 2252;

Thence north along said west line and said limits of the City of Kirkland to the north line of said Section 28;

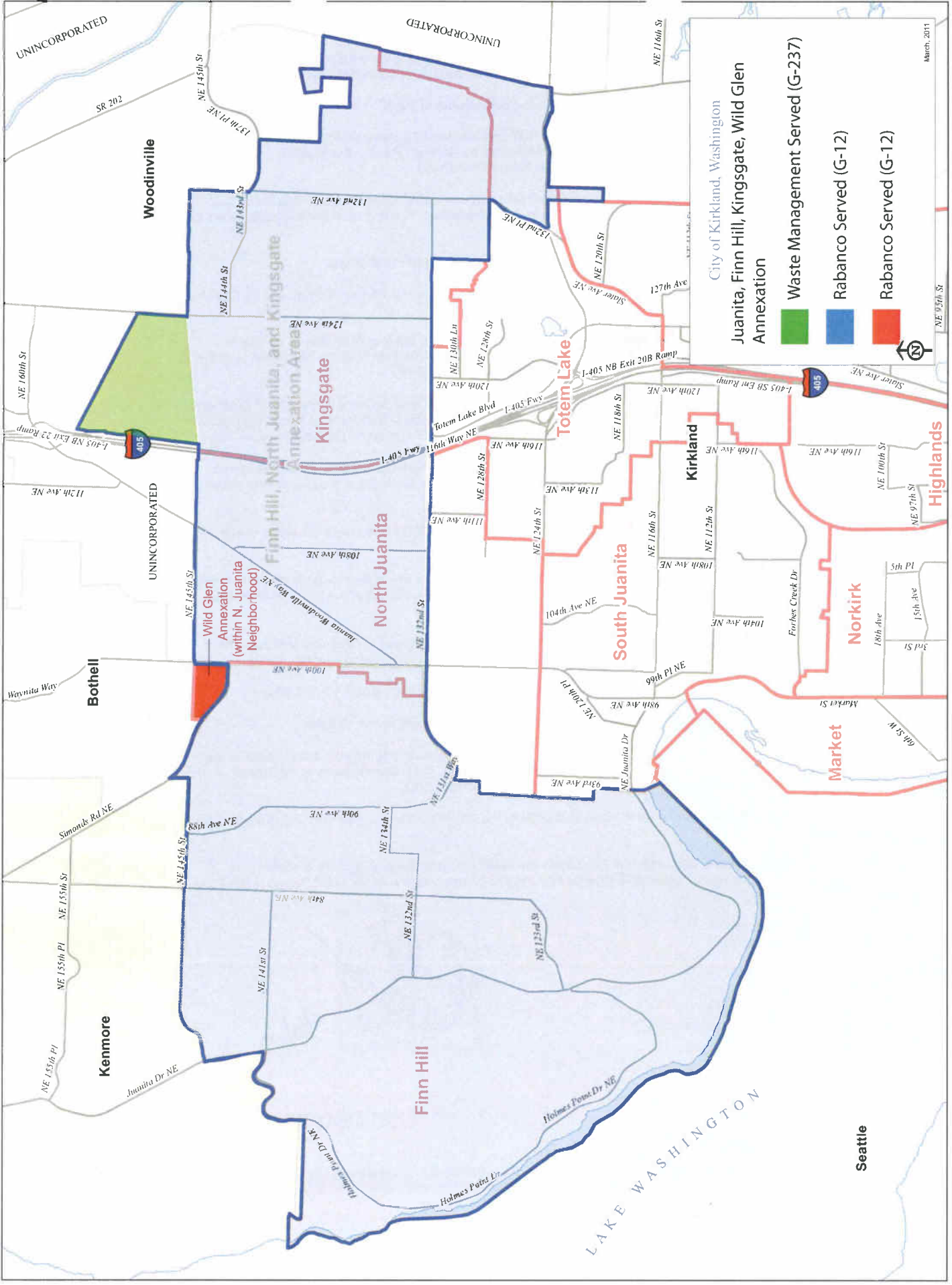
Thence west along said north line (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132<sup>nd</sup> Street) to the Point of Beginning.

Written By: BTF  
Written By: GTJ



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UNINCORPORATED

Woodinville

SR 202

Bothell

Kenmore

Wild Glen Annexation (within N. Juanita Neighborhood)

Finn Hill, North Juanita, and Kingsgate Annexation Area

Kingsgate

North Juanita

Finn Hill

Totem Lake

South Juanita

Kirkland

City of Kirkland, Washington  
Juanita, Finn Hill, Kingsgate, Wild Glen Annexation

- Waste Management Served (G-237)
- Rabanco Served (G-12)
- Rabanco Served (G-12)



March, 2011

Highlands

Norkirk

Market

Seattle

LAKE WASHINGTON

Waynuta Way

Simonds Rd NE

Juanita Dr NE

NE 145th St

NE 141st St

NE 138th St

NE 134th St

NE 132nd St

NE 128th St

NE 124th St

NE 122nd St

NE 118th St

NE 114th St

NE 110th St

NE 106th St

NE 102nd St

NE 98th St

NE 94th St

NE 90th St

NE 86th St

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NE 66th St

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NE 4th St

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NE 141st St

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NE 33rd St

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NE 25th St

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NE 17th St

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NE 9th St

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NE 116th St

NE 95th St

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This agreement (hereafter "Contract") is made and entered into this \_\_\_\_\_ day of July 2003, by and between the City of Kirkland, a municipal corporation (hereafter "City"), and Waste Management of Washington, Inc., a Washington corporation (hereafter "Contractor").

## **1. Term of Contract**

The term of this Contract is seven (7) years, starting October 1, 2003, and expiring September 30, 2010. The City may, at its option, extend the agreement for up to two (2) extensions, each of which shall not exceed two (2) years. Any such extension shall be under the original terms and conditions of this Contract. To exercise its option to extend this Contract, notice shall be given by the City to the Contractor by March 30th of the year prior to the expiration of the Contract term or the expiration of a previous extension.

## **2. Scope of Work**

### **2.1 General Collection System Requirements**

#### **2.1.1 Service Area**

The Contractor will provide all services pursuant to this Contract throughout the entire City Service Area.

#### **2.1.2 Annexation**

If, during the term of the Contract, additional territory is added to the City through annexation or other means within which the Contractor has an existing WUTC certificate or other franchise for solid waste collection at the time of annexation, the Contractor shall make collection in such annexed area in accordance with the provisions of this Contract at the unit prices set forth in this Contract. The City acknowledges that equipment, such as trucks, Carts and containers, may take time to procure, and therefore shall not penalize the Contractor for reasonable delays in the provision of services to annexed areas due to procurement delays that are not within the control of the Contractor.

This Contract is in lieu of a franchise as provided in RCW 35A.14.900. The Contractor expressly waives and releases its right to claim any damages or compensation from the City, its officers, agents, or assigns arising out of the cancellation of any pre-existing permit or franchise held by the Contractor prior to annexation, and further specifically waives the right to receive any additional compensation or any rights of collection in the newly annexed territory other than the compensation for services contained in this Contract. Both parties agree that in the event the City should elect to acquire Contractor's rights of collection prior to the expiration of the seven (7) year period subsequent to annexation, that the City will pay fair market value for the remainder of the seven (7) year period. That payment shall satisfy any and all damages suffered or claims made by the Contractor.

If, during the life of the Contract, additional territory is added to the City through annexation within which the Contractor does not have an existing WUTC certificate or other franchise for

Garbage or other collections, in such event, upon notice from the City, Contractor agrees to make collections in such annexed areas in accordance with the provisions of this Contract at the unit price set forth in this Contract. The City acknowledges that equipment, such as trucks, Carts and containers, may take time to procure for distribution and, therefore, shall not penalize the Contractor for reasonable delays in the provision of services to annexed areas covered by this paragraph due to procurement delays that are not within the control of the Contractor.

### 2.1.3 Unimproved Alleys/Private Roads

City customers on Private Roads or Drives have been historically provided on-site service, although some Residential customers have preferred to transport Garbage and recycling containers to the nearest Public Street to save wear and tear on Private Roads. The Contractor shall offer a level of service that is comparable to that previously offered under the previous collection contract, subject to customer wishes. However, if the customer's neighbors are predominantly serviced in the alleys, the customer must place their material in the alley for collection.

In the event that the Contractor believes that a Private Road or Drive can not be safely negotiated or that providing walk-in service for Residential customers is impractical due to distance or unsafe conditions, the Contractor may request the City to evaluate on-site conditions and make a determination of the best approach for providing safe and appropriate service to the customer. The City's decision shall be final, provided that the Contractor shall not be required to endanger workers, equipment or property.

### 2.1.4 Hours/Days of Operation

All collections in Residential areas (including both Single Family and Multifamily Residences) shall be made between the accustomed hours of 6:00 a.m. and 5:00 p.m., on the consistent weekday, unless the City authorizes a temporary extension of hours or days. Saturday collection is allowed to the extent consistent with make-up collections and holiday and inclement weather schedules.

All collection from Commercial Customers shall be made between the hours of 5:00 a.m. and 5:00 p.m., with the exception of customers adjacent to Residences and those Commercial Customers in the downtown core. Commercial Customers adjacent to Residences shall be collected during the Residential times specified above. Commercial customers in the downtown core, as delineated in Attachment B, shall be serviced only between the hours of 6:00 a.m. and 8:00 a.m. on weekdays to avoid conflicts with residents and traffic flow. Administrative exemptions may be granted by the City to accommodate the special needs of customers.

### 2.1.5 Employee Conduct

The Contractor's employees collecting Garbage, Recyclables and Organic Debris shall at all times be courteous, refrain from loud, inappropriate or obscene language, exercise due care, perform their work without delay, minimize noise, and avoid damage to public or private property. If on private property, employees shall follow the regular pedestrian walkways and paths, returning to the street after replacing empty containers. After emptying containers,



AGREEMENT

THIS AGREEMENT, dated this \_\_\_\_ day of January, 1991 by and among the City of Kirkland, Washington, a municipal corporation ("Kirkland"), the City of Bellevue, Washington, a municipal corporation ("Bellevue"), the Rabanco Companies, a Washington partnership ("Rabanco"), and Waste Management of Seattle, Inc., a Washington corporation ("WMS").

R E C I T A L S

WHEREAS, Waste Management - Rainier, Inc. ("Rainier"), a subsidiary of WMS, holds Certificate No. G-63 issued by the Washington Utilities and Transportation Commission ("WUTC") granting Rainier authorization to service portions of King County, including portions which are presently within the city limits of Bellevue; and

WHEREAS, Waste Management - Sno-King, Inc. ("Sno-King"), a subsidiary of WMS, holds Certificate No. G-126 issued by the WUTC granting Sno-King authorization to service portions of King County, including portions which are presently within the city limits of Bellevue and Kirkland; and

WHEREAS, Rabanco, d/b/a Eastside Disposal Company ("Eastside") operates under Certificate No. G-12 issued by WUTC granting Eastside authorization to service portions of King County, including portions which are presently within the city limits of Bellevue and Kirkland; and

WHEREAS, Eastside currently provides refuse collection, hauling and disposal services to the City of Bellevue pursuant to an Amended Solid Waste and Yard Waste Collection Agreement filed September 18, 1990; and

WHEREAS, Sno-King currently provides refuse collection, hauling and disposal services to the City of Kirkland pursuant to contract which went into effect January 1, 1990; and

WHEREAS, effective January 1, 1988 Kirkland annexed a portion of King County then serviced by Eastside; and

WHEREAS, pursuant to RCW 35 A.14.900 said annexation had the legal effect of cancelling Eastside's Certificate G-12 to serve areas within Kirkland's new city limits subject to Kirkland granting a five year franchise to Eastside and payment of damages for cancellation of the Certificate; and

WHEREAS, Eastside has filed an action in King County Superior Court Cause No. 89-2-2549-7 against Kirkland to recover damages resulting from the loss of certificated service area (the "lawsuit"); and

WHEREAS, any resolution of the lawsuit by Eastside and Kirkland may result in damages to Sno-King as a result of its contract with Kirkland; and

WHEREAS, in several annexations occurring since September of 1983, a list of which is attached as Exhibit 1 to this Agreement and is incorporated herein by this reference, Bellevue has annexed portions of King County serviced by Rainier at the time of the annexations; and

WHEREAS, pursuant to RCW 35 A.14.900, said annexation had the legal effect of cancelling Rainier's Certificate G-63 to serve areas within Bellevue's new city limits subject to Bellevue granting a five year franchise to Rainier and payment of damages for cancellation of the certificate; and

WHEREAS, Rainier and Bellevue, pursuant to an agreement dated October 31, 1989, did resolve any dispute between Rainier and Bellevue resulting from the cancelling of Rainier's certificate; and

WHEREAS, Eastside believes the October 31, 1989 agreement between Rainier and Bellevue may have resulted in damage to Eastside; and

WHEREAS, Kirkland and Bellevue wish to secure refuse collection, hauling and disposal services from one vendor; and

WHEREAS, Eastside and Kirkland wish to resolve the disputes set forth in the lawsuit without infringing on the rights of Sno-King; and

WHEREAS, Kirkland did on March 12, 1990 request Rabanco and WMS to consider potential settlement possibilities subject to Kirkland's review and approval; and

WHEREAS, Kirkland and Bellevue wish to avoid similar disputes which may result for future annexations;

NOW, THEREFORE, in order to resolve their various disputes and further to avoid costs of litigation, the parties have agreed as follows:

1. References. All references to Rabanco include all subsidiaries and divisions, including, but not limited to

Eastside, and this agreement is binding on all of them. All references to WMS includes its parent and all subsidiaries and divisions, including, but not limited to Rainier and Sno-King, and this agreement is binding on all of them.

2. Rabanco Transfer. Rabanco agrees to transfer to WMS all of its residential and commercial customers located within the following areas of the City of Kirkland:

a. The entire area annexed to Kirkland effective January 1, 1988, pursuant to and as legally described in the City of Kirkland Annexation Ordinance, No. 3062, 3063 and 3064.

b. All other areas of the City of Kirkland which were annexed into the City within five (5) years prior to the effective date of this agreement; and

c. Effective as of the date of annexation to the City of Kirkland any area of unincorporated King County within the Rabanco franchise area covered by WUTC Certificate No. G-12 which may during the term of this agreement, become annexed to the City of Kirkland, so long as WMS has a contract with the City of Kirkland to provide solid waste collection services in the City, which contract applies to the solid waste collection service in the area to be annexed.

3. WMS Transfer. WMS agrees to transfer to Rabanco all of its residential and commercial customers located with the following areas of the City of Bellevue:

a. All areas of the City of Bellevue which were annexed into Bellevue as identified on Exhibit 1, attached and incorporated herein by this reference; and

b. Effective as of the date of annexation to the City of Bellevue any areas of unincorporated King County within the WMS franchise area covered by WUTC Certificate No. G-63 or G-126 which may during the term of this agreement become annexed to the City of Bellevue, so long as Rabanco has a contract with the City of Bellevue to provide solid waste collection services in the City, which contract applies to the solid waste collection service in the area to be annexed.

4. Compensation.

a. Rabanco and WMS agree to pay to the other in cash an amount equal to six (6) times the monthly revenue of each residential customer received at the tariffed rate in effect at the time of transfer (except for WMS customers in Bellevue which shall be valued at the contract rates set forth

in Schedule A, Schedules 1 and 2, to said agreement between Rainier and Bellevue dated October 31, 1989 and excluding any taxes or other charges under that contract and six (6) times the monthly revenue of each commercial customer received at the tariffed rate in effect at the time of transfer (except for WMS customers in Bellevue which shall be valued at the contract rates set forth in Schedule A, Schedules 1 and 2, to said agreement between Rainier and Bellevue dated October 31, 1989 and excluding any taxes or other charges under that contract and six (6) times the monthly revenue for roll off or drop box customers (which shall be calculated as an average of the six (6) month's revenue from such accounts for the six (6) months just prior to transfer). WMS and Rabanco agree to provide the party receiving the customers with satisfactory documentation of the monthly revenue generated from such customers. Payments shall be "netted" against one another and a cash payment shall be paid based on the "netting" of revenues otherwise due.

b. In the event that Kirkland shall after the effective date hereof and during the term of this agreement, annex additional areas presently served by Rabanco pursuant to Certificate No. G-12, Rabanco agrees to transfer to WMS and WMS agrees to purchase from Rabanco, Rabanco's customers within such annexed area, so long as WMS, at the time of transfer, has a contract with the City of Kirkland to provide solid waste collection services in the City, which contract applies to the solid waste collection service in the area to be annexed. The purchase price shall be an amount in cash equal to six (6) times the monthly revenue generated by such Rabanco customers as described in paragraph 4.a., above. The contract held by WMS shall remain in effect as to the annexed area for which a transfer under this subparagraph occurs for a minimum period of five (5) years.

c. In the event that Bellevue shall after the effective date hereof and during the term of this agreement, annex additional areas presently served by WMS pursuant to Certificate No. G-63 and/or G-126, Rainier agrees to transfer to Rabanco and Rabanco agrees to purchase from WMS, WMS' customers within such annexed areas, so long as Rabanco, at the time of transfer, has a contract with the City of Bellevue to provide solid waste collection services in the City, which contract applies to the solid waste collection service in the area to be annexed. The purchase price shall be an amount in cash equal to six (6) times the monthly revenue generated by such WMS customers as described paragraph 4.a., above, except the rate used to determine monthly revenue shall be the then effective tariff rate, not the Bellevue contract rate. The contract held by Rabanco shall remain in effect as to the

annexed area for which a transfer under this subparagraph occurs for a minimum period of five (5) years.

d. As used in this agreement, the reference to residential and commercial customers refers to customers serviced by any type of solid waste collection service in the area in question, including, but not limited to, municipal solid waste, yard waste, recyclable waste, special waste, hazardous waste, demolition waste and land clearing debris.

5. Time of Transfer.

a. Rabanco and WMS shall transfer the residential and commercial customers in Kirkland and Bellevue as those cities exist as the date of this agreement, to each other, effective February 1, 1991, or as soon thereafter as approvals by the Cities of Kirkland and Bellevue are obtained. Rabanco and WMS shall cooperate with one another to accomplish the transfer so that service to customers suffer the least possible interruption.

b. In the event of future annexations during the term of this agreement, Rabanco and WMS shall transfer the residential and commercial customers on July 1st or January 1st, immediately following the effective date of the future annexation. Rabanco and WMS shall cooperate with one another to ensure that service to customers suffers the least possible interruption.

c. Payment of compensation shall occur at the time of transfer.

6. Transfer of Containers/Toters. When any residential or commercial customers are transferred under the terms of this agreement, the containers used to serve those customers shall not be transferred, but shall be retained by the company which is transferring the customers. If, by mutual agreement of Rabanco and WMS, containers are to be transferred with the customers at the time of transfer, then the transferee company shall pay for said containers at the transferring company's book value; provided, that, the containers to be transferred are compatible with the requirements of the city into which the customers are being annexed.

7. Jurisdiction. This agreement is made with reference to and is intended to be construed in accordance with the laws of the State of Washington.

8. Successors In Interest. This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

9. Execution by Counterpart. This agreement shall be executed separately or independently in any number of counterparts, each and all of which together shall be deemed to have been executed simultaneously and for all purposes be one agreement.

10. Captions. The respective captions of the sections or paragraphs hereof are inserted for convenience of reference only and shall not be deemed to modify or otherwise effect in any respect any of the provisions hereof.

11. Construction. This agreement shall not be construed more favorably to one party over another, notwithstanding the fact that one party, or its attorney, may have been more responsible for the preparation of the agreement.

12. Attorneys' Fees. In the event that any party hereto retains an attorney to enforce any of the provisions hereof, then the prevailing party shall be entitled to costs and reasonable attorneys' fees incurred in arbitration or in trial and/or appellate courts, or fees incurred without suit and all court and accounting costs.

13. Time. Time is expressly declared to be of the essence in this agreement.

14. Confidentiality and Disclosure. Rabanco and WMS acknowledge that they have exchanged information of a confidential nature and that this agreement contemplates that in the future, confidential information may be exchanged. Any confidential information which is given by Rabanco and WMS to the other shall be treated by the other as confidential and shall be protected by the receiving party to the same extent that it would protect its own confidential or proprietary information. The receiving party shall inform its employees of the confidential nature of the information and the steps which must be taken to protect that information. Such information shall not be disclosed unless such data or information has been published or is a matter of public knowledge or is required to be disclosed by legal process. Notwithstanding the foregoing, Rabanco and WMS may at any time notify employees, unions, bargaining agents and the public at large of the agreement contemplated herein.

15. Amendment. No modification, amendment, addition to or termination of this agreement nor waiver of any of its

provisions shall be valid or enforceable unless in writing and signed by all parties.

16. Waiver. No failure on the part of either party to exercise, and no delay in exercising, any rights hereunder shall operate as a waiver thereof; nor shall any waiver or acceptance of a partial, single or delayed performance of any term or condition of this agreement operate as a continuing waiver or a waiver of any subsequent breach thereof.

17. Assignment. This agreement may not be assigned by any party hereto, without the prior written consent of all other parties, which consent shall not be unreasonably withheld.

18. Arbitration.

a. Except as may be otherwise provided herein, all disputes between Rabanco and WMS regarding the interpretation of this agreement, or arising from or in connection with this agreement, shall be resolved by arbitration. The party, Rabanco or WMS, desiring to resolve a dispute shall notify the other in writing of the grounds for the dispute. Within thirty (30) days of such notice, each party shall each appoint an arbitrator. Those two arbitrators shall, within thirty (30) calendar days of their appointment meet and select a third arbitrator. The arbitration panel so selected shall establish an arbitration date for the arbitration to be held within thirty (30) calendar days of completion of the panel. The arbitration panel shall render its decision within fifteen (15) days of the date of arbitration. The decision of the arbitration panel shall be final. If the parties cannot mutually resolve the dispute, or an arbitration panel is not selected within the time period described herein, then the aggrieved party may petition the Superior Court for King County for the appointment of an arbitrator by the then presiding judge under the provisions of the Revised Code of Washington §7.04.050, as now in effect or as hereafter amended. Thereafter, the arbitration shall be governed by the provisions of the Revised Code of Washington Chapter 7.04, as now in effect and as hereafter amended, provided that any arbitrator appointed shall have the authority granted to arbitrators under Rule 3.2 of the Superior Court Mandatory Arbitration Rules, as now in effect or as hereafter amended; and, provided further, that the decision of the arbitration panel or arbitrator shall be binding upon the parties.

b. Except as may be otherwise provided herein, all disputes between the parties, other than disputes between Rabanco and WMS, regarding the interpretation of this

agreement, arising from or in connection with this agreement shall be resolved by arbitration. The party desiring to resolve a dispute shall notify the other parties in writing of the grounds for the dispute. If the parties cannot mutually resolve the dispute or agree on an arbitrator within thirty (30) calendar days of such notice, then the aggrieved party may petition the Superior Court for King County for the appointment of an arbitrator by the then presiding judge under the provisions of the Revised Code of Washington §7.04.050, as now in effect or as hereafter amended. Thereafter, the arbitration shall be governed by the provisions of the Revised Code of Washington Chapter 7.04, as now in effect or as hereafter modified, provided that arbitrator appointed shall have the authority granted to arbitrators under Rule 3.2 of the Superior Court Mandatory Arbitration Rules, as now in effect or as hereafter amended; and, provided further, that the decision of the arbitration panel or arbitrator shall be binding upon the parties.

19. Term. This agreement shall begin as of the date set forth above and shall terminate December 31, 2015.

20. Notice. Any notice provided for in this agreement shall be deemed given if it is in writing and is personally delivered or sent by certified mail, postage prepaid, return receipt requested, and delivered or addressed as set forth below, or to such other address as a party may hereafter designate by notice to all other parties given in the same manner:

To Rabanco: Warren J. Razore  
4730 - 32nd Avenue South  
Seattle, WA 98118

To WMS: Arthur J. Dudzinski  
4020 Lake Washington Blvd. NE  
Suite 310  
Kirkland, WA 98033

To Bellevue: Hon. Terry Lukens  
P.O. Box 90012  
Bellevue, WA 98009

To Kirkland: Hon. Randy Barton  
123 Fifth Avenue  
Kirkland, WA 98033



THIS AGREEMENT entered into the date first set forth above.

CITY OF BELLEVUE, a  
Municipal corporation

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

CITY OF KIRKLAND, a  
Municipal corporation

BY: Terrence J. Ellis

ITS: City Manager

RABANCO COMPANIES,  
a Washington partnership  
on behalf of itself and  
its subsidiaries and  
divisions

BY: [Signature]

ITS: Vice President

WASTE MANAGEMENT OF SEATTLE, INC.,  
a Washington corporation  
on behalf of itself, its parent,  
and its subsidiaries and divisions

BY: [Signature]


ITS: Vice President



STATE OF WASHINGTON )  
 ) ss.  
County of King )

On this day personally appeared before me Nelson A. Johnson, to me known to be the Vice President of Rabanco Companies, the partnership described in and that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument of behalf of said partnership.

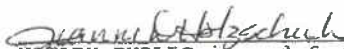
GIVEN under my hand and official seal this 25 day of January, 1998.

  
NOTARY PUBLIC in and for the State of Washington, residing at Seattle.  
My Commission Expires: 7-23-93.

STATE OF WASHINGTON )  
 ) ss.  
County of King )

On this day personally appeared before me Art Dudzinski, to me know to be the Vice President of Waste Management of Seattle, Inc. the corporation described in and that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation.

GIVEN under my hand and official seal this 26<sup>th</sup> day of January, 1990.

  
NOTARY PUBLIC in and for the State of Washington, residing at Redmond.  
My Commission Expires: 2-26-94.



Hazardous Waste or Special Waste inadvertently collected and identified by Contractor.

#### 2.1.1 City Service Area

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

#### 2.1.2 Annexation

The Contractor further agrees that the transition of such annexed areas previously serviced by Allied Waste into the City Service Area shall be managed in accordance with the 4 Way Agreement and all necessary actions under that Agreement to begin providing service within the entire City Service Area will be completed before the Start Date or such other Start Date as agreed to pursuant to Section 1 herein.

The Contractor shall develop and implement a detailed contract transition plan for the City Service Area, subject to review and approval by the City. The Contractor and the City agree to meet regularly to monitor progress of the transition plan.

If additional territory is added to the City through annexation or other means within which the Contractor has an existing WUTC certificate or other franchise for solid waste collection at the time of annexation, the Contractor shall make collection in such annexed area in accordance with the provisions of this Contract at the unit prices set forth in this Contract. This Contract is in lieu of a franchise as provided in RCW 35A.14.900 for such future areas. The Contractor agrees that their certificate applicable to those future annexation areas shall be cancelled effective the date of annexation by the City. The Contractor expressly waives and releases its right to claim any damages or compensation from the City, its officers, agents, or assigns arising out of the cancellation of any pre-existing permit or franchise held by the Contractor prior to annexation, and further specifically waives the right to receive any additional compensation or any rights of collection in the newly annexed territory beyond what is provided herein. The term during which the Contractor will service any future annexation areas under this paragraph shall be seven (7) years, notwithstanding the term set forth in Section 1 of this Agreement.

If, during the life of the Contract, additional territory is added to the City through annexation within which the Contractor does not have an existing WUTC certificate or other franchise for Garbage or other collections, then, upon written notice from the City should the City so choose Contractor agrees to make collections in such future annexed areas in accordance with the provisions of this Contract at the unit prices set forth in this Contract. If a party other than the Contractor holds the WUTC certificate for any

such future annexed territory, the City will indemnify, hold harmless and defend the Contractor from any and all claims, actions, suits, liability, loss, costs, expenses and damages, including costs and attorney fees, arising out of Contractor's service in such annexed territory under this Contract.

The City acknowledges that equipment, such as trucks, carts and Containers, may take time to procure for distribution, and therefore, shall not penalize the Contractor for reasonable delays in the provision of services to annexed areas covered by this Contract due to procurement delays that are not within the control of the Contractor.

Annexed areas Customers shall receive the same Containers as used elsewhere in the City, in accordance with the provisions of this Contract. In the event where an annexed area is being serviced with Containers different from the City's program, the Contractor shall be responsible for timely Customer notification, removal and recycling of existing Containers and delivery of appropriate Containers to those Customers.

### 2.1.3 Unimproved Public Streets and Private Roads

The Contractor shall offer drive-in service to residences that allow safe access, turn-around space, and clearance for service vehicles. Residences located in an area that does not allow safe access, turn-around or clearance for service vehicles will be provided service if materials are set out adjacent to the nearest Public Street or Private Road that provides safe access.

In the event that the Contractor believes that a Private Road or Drive cannot be safely negotiated or that providing drive-in service for Residential Customers is impractical due to distance or unsafe conditions, the Contractor and the City will evaluate on-site conditions and make a determination of the best approach for providing safe and appropriate service to the customer. The Contractor and the City shall present feasible service options to the Customer and negotiate the nearest safe and mutually convenient pick up location. The City's decision shall be final, provided that the Contractor shall not be required to endanger workers, equipment or property.

If the Contractor believes that there is a probability of Private Road damage, the Contractor shall inform the respective Customers. Contractor may require a damage waiver agreement or decline to provide service on those Private Roads. The City shall review and approve the damage waiver form prior to its use with the Contractor's Customers.

### 2.1.4 Hours/Days of Operation