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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

RABANCO LTD., a Washington corporation,

Plaintiff,

v.

KING COUNTY, a political subdivision of the  
State of Washington,

Defendant.

No. 04-2-06720-1SEA

**FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

**I. INTRODUCTION**

1. This action arises from an illegal attempt by King County to divert money from its Solid Waste Enterprise Fund. Pursuant to RCW 43.09.210, Solid Waste Enterprise Fund monies can only be used to pay for expenses and programs related to solid waste, not to pay for general county programs. Through a sham transaction, King County is charging the King County Solid Waste Division \$7 million a year to "rent" its Cedar Hills landfill that, King County has publicly admitted for years, "is owned and operated by the King County Solid Waste Division."

2. The King County Solid Waste Division has operated the Cedar Hills landfill since the 1960s. Before 1992, the State of Washington owned the property and leased it to the

1 county for \$460 a year. In 1992, following a change in state law permitting the State to  
2 convey property that it was leasing to a county for use as a landfill, the State donated the  
3 landfill property to the Solid Waste Division. At that time, King County recorded the landfill  
4 property as an asset of the Solid Waste Division's Enterprise Fund. Every financial report for  
5 the next ten years listed the landfill as property of the Solid Waste Enterprise Fund.

6 3. In June 2003, however, county financial records reveal that King County  
7 switched the landfill property, valued at \$3.45 million, from an asset of the Solid Waste  
8 Enterprise Fund to an asset of the General Fund without providing any compensation to the  
9 Solid Waste Enterprise Fund. Following this sleight of hand, King County then announced  
10 that, to offset an unprecedented budget deficit in its General Fund, it would begin requiring  
11 the Solid Waste Division pay \$7 million per year to "rent" its own landfill – a rent more than  
12 *double* the listed \$3.45 million value of the property and which included "back" rent for all  
13 the years when the landfill was listed as property of the Solid Waste Division. King County  
14 has required the Solid Waste Division to pay this "rent" even though King County still  
15 publicly admits that the "the landfill . . . is owned and operated by the King County Solid  
16 Waste Division."

17 4. To pay for this scheme, King County abused its unique dual position as both a  
18 regulator of solid waste and a market competitor to Rabanco and other private companies in  
19 the area of solid waste handling and disposal. King County is a market competitor because,  
20 like Rabanco, King County owns both transfer stations and a landfill. As a regulator, King  
21 County by ordinance requires the final disposal of all solid waste from unincorporated King  
22 County at the county-owned Cedar Hills landfill rather than at one of Rabanco's (or an  
23 affiliate's) newer, state-of-the-art, less expensive landfills. King County further requires self-  
24 haulers and private haulers to take collected solid waste to either a county-owned transfer

1 station located in a suburban community or one of two private transfer stations located in  
2 industrial parts of Seattle, including one owned by Rabanco. With a monopoly on solid waste  
3 disposal, King County charges a basic disposal fee of \$82.50 per ton at its county-owned  
4 transfer stations, even though Rabanco could dispose of the solid waste at its or an affiliate's  
5 landfill at a fraction of that cost. King County also charges a reduced rate, called the regional  
6 direct rate, to companies such as Rabanco who operate private transfer stations, which permits  
7 the companies to bypass the congestion around the county-owned transfer stations by  
8 processing the solid waste at their transfer stations before trucking the consolidated waste  
9 directly to the Cedar Hills landfill. The regional direct rate is currently \$59.50 per ton. The  
10 county's solid waste comprehensive plan provides that "the privately owned transfer stations  
11 are integral to the efficient operation of the solid waste system and, as private enterprises, are  
12 entitled to a *reasonable profit*." It further provides that "[t]he regional direct fee is a rate  
13 *negotiated* between the private companies and the County."

14 5. King County, however, now has violated its own comprehensive plan by  
15 unilaterally raising over Rabanco's objection (and the objections of suburban cities and labor  
16 unions) the regional direct rate to \$69.50, effective April 1, 2004, in an effort to raise revenue  
17 to pay for the sham "rent" obligation by eliminating its competition from the private transfer  
18 stations. This rate increase effectively puts the private transfer stations such as Rabanco's out  
19 of business because there is no "reasonable profit." There was no "negotiation" regarding this  
20 rate increase. This increase forces Rabanco to take a loss on any King County solid waste  
21 processed at its own private transfer facility. The rate that Rabanco may charge its collection  
22 customers for disposal is \$82.50 per ton. Because Rabanco's overall collection fee (including  
23 the disposal component) that it charges to its collection customers is regulated and set by the  
24 State of Washington, Rabanco cannot raise its rate on its own. From this \$82.50, Rabanco

1 must also pay the City of Seattle a tax of \$6.45 per ton for solid waste received at Rabanco's  
2 transfer station. As a result, with the increase in King County's regional direct rate to \$69.50,  
3 Rabanco receives gross revenue of only \$6.55 per ton on solid waste processed at its private  
4 transfer station (\$82.50 fee - \$69.50 regional direct rate - \$6.45 City of Seattle tax = \$6.55).  
5 Rabanco's costs to operate the transfer station and to transport the processed solid waste to  
6 Cedar Hills, however, greatly exceed \$6.55. For example, according to King County's own  
7 records, its operating and transportation costs for processing solid waste at its county-owned  
8 facilities is \$13.50 per ton. Because Rabanco cannot operate its transfer station at a loss, the  
9 \$10 per ton increase in the regional direct rate would force Rabanco to re-route the 150,000  
10 tons of solid waste that it annually has processed at its own private transfer station to the  
11 county-owned transfer stations, many of which are located in suburban neighborhoods.

12 6. King County's actions violate its own comprehensive plan, state statutes, and  
13 the state and U.S. constitutions.

## 14 II. THE PARTIES

15 7. Plaintiff Rabanco Ltd. is a Washington corporation with its principal place of  
16 business located in the State of Washington and with an office located in Seattle, Washington.  
17 Rabanco and its affiliates collect solid waste, process it at its transfer station, and own  
18 landfills in Oregon, Montana, and Klickitat County, Washington.

19 8. Defendant King County is a political subdivision of the State of Washington.  
20 King County, through its Solid Waste Division, has eight transfer stations in suburban  
21 communities and owns the Cedar Hills landfill. King County simultaneously regulates and  
22 competes with Rabanco.

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### III. JURISDICTION AND VENUE

9. Jurisdiction and venue are proper in King County under RCW 4.12.025, with Plaintiff and Defendant both doing business in King County, Washington.

### IV. CRITICAL FACTS

#### A. King County's Limited Authority To Regulate Solid Waste

10. Pursuant to RCW 36.58.040, the State of Washington has granted its counties, including King County, limited authority to regulate the handling and disposal of solid waste.

The statute provides:

The legislative authority of a county may by ordinance provide for the establishment of a system or systems of solid waste handling for all unincorporated areas of the county or for portions thereof. A county may designate a disposal site or sites for all solid waste collected in the unincorporated areas pursuant to the provisions of a comprehensive solid waste plan adopted pursuant to chapter 70.95 RCW. However for any solid waste collected by a private hauler operating under a certificate granted by the Washington utilities and transportation commission under the provisions of chapter 81.77 RCW and which certificate is for collection in a geographic area lying in more than one county, such designation of disposal sites shall be pursuant to an interlocal agreement between the involved counties.

RCW 36.58.040.

11. King County has enacted a flow control ordinance requiring the final disposal of essentially all solid waste generated or collected in King County at the county-owned Cedar Hills landfill. King County Code § 10.08.020(A)-(D) (a copy of which is attached as Exhibit A and incorporated by reference). As amended in 2003, the flow control ordinance provides as follows:

It is unlawful for any person to deliver county solid waste other than unauthorized waste as determined by the manager to any facility for final disposal other than the county-owned Cedar Hills regional landfill, unless the manager has provided prior written authorization for the disposal for public

1 health, safety, welfare or planning purposes and the disposal is consistent with  
2 the adopted King County Solid Waste Comprehensive Plan.

3 KCC 10.08.020(D). A violation of the flow control ordinance is a misdemeanor pursuant to  
4 KCC 10.08.110.

5 **B. King County Solid Waste System**

6 12. King County regulates the disposal of solid waste from unincorporated King  
7 County and from cities with which the county has entered into interlocal agreements (which  
8 currently are all cities in King County except Seattle and Milton). The City of Seattle has  
9 implemented its own solid waste system and is not part of King County's system. The City of  
10 Milton, which is located in both King and Pierce Counties, has elected to take part in Pierce  
11 County's solid waste system.

12 13. The King County solid waste disposal system is generally composed of two  
13 parts – the Cedar Hills landfill in Maple Valley and multiple transfer stations located  
14 throughout the county where collection companies and self-haulers deliver solid waste before  
15 transportation to Cedar Hills for final disposal. King County Code § 10.08.030 requires that  
16 “[t]o the extent practicable, solid waste disposal facilities shall be located in a manner which  
17 equalizes their distribution around the county, so that no single area of the county will be  
18 required to absorb an undue share of the impact from these facilities.” Similarly, pursuant to  
19 King County Solid Waste Comprehensive Plan F-250 (2001) (which is attached as Exhibit B  
20 and incorporated by reference), King County requires that its “[s]olid waste handling facilities  
21 should be dispersed throughout the County in an equitable manner.” The general public must  
22 take its solid waste to a transfer station because Cedar Hills landfill is closed to self-haulers.  
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1           14.     King County owns and operates all of the transfer stations except for two  
2 private transfer stations in Seattle. Rabanco owns and operates one of these private transfer  
3 stations.

4           **C.     Rabanco's Role In the Solid Waste System**

5           15.     Rabanco is one of the private hauling companies that the Washington Utilities  
6 and Transportation Commission (WUTC) has authorized to collect Municipal Solid Waste  
7 (MSW) from residents in unincorporated King County. Rabanco also has contracts with  
8 several cities in King County to collect MSW in those cities. These cities include Bellevue,  
9 Mercer Island, Issaquah, North Bend, Snoqualmie, Medina, Clyde Hill, Kent, Des Moines,  
10 Tukwila, Algona, and Lake Forest Park.

11           16.     Almost all of these city contracts restrict the times during which Rabanco may  
12 collect the solid waste. In addition, Rabanco must comply with these cities' noise restrictions  
13 either by contract or city ordinance. For residential customers, the contracts generally require  
14 Rabanco to collect waste during the daytime. Business customers, however, require Rabanco  
15 to collect more than one-third of the total MSW during "after hours," either late at night or  
16 early in the morning to avoid congestion, noise, and other disruptions around the businesses  
17 while they are open. As an example of these restrictions, the pertinent section of Rabanco's  
18 contract with the City of Bellevue is attached as Exhibit C and incorporated by reference.

19           17.     Rabanco owns and operates a transfer station at Third Avenue South and  
20 Lander Street in south Seattle. The City of Seattle imposes a tax of \$6.45 per ton for all MSW  
21 deposited within the city limits. Thus, all MSW that Rabanco takes to its private transfer  
22 station is subject to the \$6.45 per ton tax.

23           18.     Currently, Rabanco's transfer station receives approximately 150,000 tons of  
24 MSW per year from King County, excluding Seattle.

1           19.     Because Rabanco collects solid waste virtually around the clock on a daily  
2 basis and because the county-owned transfer stations are closed after regular business hours,  
3 Rabanco must keep its transfer station open 24 hours a day from mid-day Sunday through  
4 Saturday evening.

5           **D.     King County Has Acknowledged That The Private Transfer Stations Are**  
6           **Integral To The King County Solid Waste System And Are Entitled To A**  
7           **Reasonable Profit.**

8           20.     Pursuant to RCW 70.95.080, all counties must have in place a comprehensive  
9 solid waste management plan.

10          21.     Chapter 10 of the current King County Comprehensive Solid Waste  
11 Management Plan (2001) provides that “it is important to recognize that the privately owned  
12 transfer stations are integral to the efficient operation of the solid waste system and, as private  
13 enterprises, are entitled to a reasonable profit.” King County Comprehensive Solid Waste  
14 Plan at 10-10 (a copy of the pertinent excerpts from this chapter is attached as Exhibit D and  
15 is incorporated by reference).

16          22.     The private transfer stations provide obvious benefits. For example,  
17 Rabanco’s transfer station is located within an industrial area of south Seattle, not in a  
18 residential neighborhood. The central location of this facility also permits Rabanco to re-  
19 route trucks to its transfer station when county-owned transfer stations become congested  
20 during daytime hours. Thus, every truck that Rabanco sends to its transfer station is one less  
21 truck waiting in line at a neighborhood transfer station, thereby reducing noise and congestion  
22 in those communities. Rabanco also operates its transfer stations 24-hours a day, so Rabanco  
23 has a place to take the “after hours” waste that it must collect from its business customers  
24 when they are closed.



1     **E.     King County Solid Waste Disposal Fees**

2             23.     King County charges two types of disposal fees for MSW that it collects – the  
3     basic fee and the regional direct rate.

4             24.     The basic fee is the rate that King County charges self-haulers and private  
5     haulers who dispose of MSW at any of the county-owned transfer stations. Currently, the  
6     basic disposal fee is \$82.50 per ton.

7             25.     The rate for MSW collection in unincorporated King County is set by the  
8     WUTC. The disposal portion of the collection rate is \$82.50 per ton. Thus, the entire King  
9     County basic disposal fee of \$82.50 is passed through to the King County residents and  
10    businesses who receive solid waste collection services.

11            26.     In 2003, Eugene K. Eckhardt of the WUTC sent an email to King County that  
12    the WUTC did not foresee any circumstances in which it would allow an increase in  
13    collection rates as long as King County continued to charge a disposal fee of \$82.50 per ton at  
14    Cedar Hills. *See Exhibit E.*

15            27.     Less than half of the \$82.50 per ton disposal fee that King County residents  
16    and businesses pay is related to actual disposal costs incurred by King County. According to  
17    King County, it costs only \$26 per ton to dispose of solid waste at the Cedar Hills landfill and  
18    \$13.50 per ton to collect and process it at the county-owned transfer stations and transport it  
19    to the Cedar Hills. Thus, King County's actual transfer and disposal cost is only \$39.50 per  
20    ton, yet it charges \$82.50 per ton. King County earmarks the remaining \$43 it collects from  
21    its residents and businesses for "other" programs.

22            28.     In contrast, the MSW disposal charge at Rabanco's Klickitat County landfill is  
23    \$19.75 per ton, at an affiliate's Oregon landfill is \$23.50 per ton, and at an affiliate's Montana  
24    landfill is \$20.00 per ton.

1           29.     The regional direct rate is the rate that King County charges private haulers,  
2     such as Rabanco, who bypass the county-owned transfer stations and use their own private  
3     transfer stations to process and consolidate waste before trucking their collected solid waste  
4     directly to the Cedar Hills landfill for final disposal. According to Chapter 10-5 of the current  
5     King County Comprehensive Solid Waste Management Plan, “[t]he regional direct fee is a  
6     rate *negotiated* between the private companies and the County that covers the full cost of  
7     disposal at Cedar Hills but only some of the costs of services and programs that are provided  
8     by the Solid Waste Division.” Exhibit D at 10-5 (emphasis added). The regional direct rate is  
9     currently \$59.50 per ton.

10     **F.     The Cedar Hills Landfill**

11           30.     The Cedar Hills Regional Landfill is the only open landfill for MSW located in  
12     King County. According to an official King County statement that is currently available on  
13     the King County web site (which is attached as Exhibit F and incorporated by reference),  
14     “[t]he landfill . . . is owned and operated by the King County Solid Waste Division.”

15           31.     Cedar Hills occupies 920 acres with approximately 406 acres available for  
16     landfilling and support functions.

17           32.     According to King County, the landfill will have capacity for only nine more  
18     years. On its closure, federal, state, and local regulations require a thirty-year monitoring  
19     period of the property. *See* Exhibit F.

20           33.     In 1968, the Washington State Department of Natural Resources began leasing  
21     the Cedar Hills landfill property to the King County Solid Waste Division.

22           34.     The State charged King County only a nominal annual rent of \$460 for the  
23     property from 1968 through 1991. *See* Exhibit G.

1           35.     In 1991, the Washington State Legislature enacted RCW 79.22.120. This  
2 statute authorized the Department of Natural Resources to convey certain land to a county if  
3 the department was then currently leasing that land to the county for use as “a sanitary landfill  
4 and/or transfer station.”

5           36.     In 1992, pursuant to RCW 79.22.120, the Cedar Hills Landfill property was  
6 donated to Solid Waste Division by the State Department of Natural Resources. Exhibit H.

7           37.     At that time, the Cedar Hills landfill property was treated as an asset of the  
8 King County Solid Waste Division. According to the King County Comprehensive Annual  
9 Financial Report (CAFR), dated December 31, 1992, King County recorded the Cedar Hills  
10 landfill property as an asset of the Solid Waste Enterprise Fund, with the notation that “Cedar  
11 Hills Landfill property donated to Solid Waste Division by State Department of Natural  
12 Resources had a fair market value of \$3,457,400.” *See* Exhibit H. The King County Solid  
13 Waste Division continued to operate the Cedar Hills landfill.

14           **G.     The King County Solid Waste Enterprise Fund**

15           38.     The King County Solid Waste Division has several special enterprise funds  
16 (collectively “the Solid Waste Enterprise Fund”) that it uses to pay for the operation and  
17 maintenance of the Cedar Hills landfill and the county-owned transfer stations. The payment  
18 of disposal fees at the county’s solid waste facilities is the primary source of revenue for the  
19 Solid Waste Enterprise Fund. Thus, the King County residents and businesses who pay for  
20 waste collection services ultimately finance the Solid Waste Enterprise Fund.

21           39.     By state law, funds from the Solid Waste Enterprise Fund may only be used to  
22 pay for expenses related to solid waste, such as the operation, maintenance, or closure of  
23 county solid waste disposal facilities, or the funding of solid waste and recycling programs.  
24 *See* RCW 43.09.210.

1           40.     As a result, King County cannot use monies from the Solid Waste Enterprise  
2 Fund for non-solid waste purposes. Nor can King County transfer monies from the Solid  
3 Waste Enterprise Fund to its General Fund.

4     **H.     King County's Scheme To Circumvent the Prohibition Against Using Solid**  
5     **Waste Enterprise Funds For General Purposes By Requiring the Solid Waste**  
6     **Division To "Rent" On Its Own Landfill**

7           41.     In early 2003, King County implemented a scheme to circumvent the  
8 prohibition against using the Solid Waste Enterprise Fund for general purposes by requiring  
9 the Solid Waste Division to pay "rent" on its own landfill. In February 2003, the King  
10 County Executive sent a letter to the cities with which King County had interlocal agreements  
11 indicating King County was facing an "unprecedented budget crisis" in which the county's  
12 General Fund had a \$24 million budget shortfall. A copy of this letter is attached as Exhibit I  
13 and incorporated by reference. As result, King County informed the cities that, for the first  
14 time, it would begin to require an annual payment of \$7 million from the Solid Waste  
15 Enterprise Fund into the King County General Fund as rent for the use of the Cedar Hills  
16 landfill property. This \$7 million rent payment escalates in 2012 after Cedar Hills closes to  
17 account for a calculated \$120 million in back rent that King County claimed that its Solid  
18 Waste Division should have paid from 1992 through 2003, even though the Cedar Hills  
19 landfill was then listed as an asset of the Solid Waste Enterprise Fund. As the pretext for  
20 suddenly requiring the payment of rent, King County claimed that King County at large, not  
21 the King County Solid Waste Division, should be considered the owner of the Cedar Hills  
22 landfill property. Such a claim, however, contradicted King County's own financial records  
23 from 1992 indicating that "Cedar Hills Landfill property [was] donated to Solid Waste  
24 Division by the State Department of Natural Resources," Exhibit H, and King County's

1 continued public admission that “[t]he landfill . . . is owned and operated by the King County  
2 Solid Waste Division.” Exhibit F.

3 42. To implement its “rent” scheme, King County switched – on paper – the Cedar  
4 Hills property from an asset of the Solid Waste Enterprise Fund to an asset of the General  
5 Fund. According to the King County CAFR for financial year 2002 (which was completed on  
6 June 30, 2003 and excerpts of which are attached as Exhibit J and incorporated by reference),  
7 King County transferred the Cedar Hills landfill property from King County’s Solid Waste  
8 Enterprise Fund to King County’s General Fund. According to this statement, the assessed  
9 value of the Cedar Hills landfill property was \$3,457,400. King County provided no  
10 compensation to its Solid Waste Enterprise Fund for the transfer of the asset. The Financial  
11 Reports reflected a reduction in the Solid Waste Enterprise Fund’s total land assets from  
12 \$15,715,804 in financial year 2001 (Exhibit K) to \$12,258,404 in financial year 2002  
13 (Exhibit J), a difference of \$3,457,400. King County did not transfer any other real property  
14 of the Solid Waste Enterprise Fund, and the county-owned transfer stations, plus additional  
15 properties, remain assets of the King County Solid Waste Enterprise Fund.

16 43. King County selected \$7 million as the amount of annual rent even though  
17 King County listed the total value of the property as only \$3.45 million, and King County did  
18 not pay the State any monies when the State donated the landfill to the Solid Waste Division  
19 in 1992. *See* Exhibit J. When the State owned the landfill, it charged King County only \$460  
20 a year in rent.

21 44. According to a public statement by the King County Executive (which is  
22 attached as Exhibit L and incorporated by reference), the Solid Waste Division would make  
23 the payments from its Solid Waste Enterprise Fund to King County’s General Fund for the  
24 purpose of creating “a long-term dedicated funding source for human service programs.”

1           45.     In September 2003, despite the strenuous objections of the cities who are part  
2 of the King County solid waste disposal system, the King County Council passed a motion  
3 authorizing King County to charge its Solid Waste Division \$7 million annual rent for use of  
4 its own facilities to help pay for social services.

5           **I.     King County Raises The Regional Direct Rate To Pay For The Sham Rent**  
6           **Obligation**

7           46.     In order to pay for the new \$7 million “rent” obligation, King County proposed  
8 increasing the regional direct rate from \$59.50 to \$69.50. According to the staff report  
9 prepared for the King County Council in advance of the vote on the ordinance (excerpts of  
10 which are attached as Exhibit M and incorporated by reference), King County anticipated that  
11 the regional direct rate increase would result in an additional net \$1.6 million per year to pay  
12 for part of the new “rent” obligation.

13           47.     On December 8, 2003, the King County Council adopted Ordinance 2003-  
14 0459 approving a raise in the regional direct rate from \$59.50 to \$69.50 per ton, effective  
15 April 1, 2004. The King County Council passed the rate increase despite the opposition of the  
16 private haulers (including Rabanco), suburban cities, labor unions, and concerns from the  
17 King County Solid Waste Advisory Committee that “any potential revenues from the increase  
18 in the Regional Direct Fee could be consumed with legal bills.” Exhibit N at 6:177-8:226.  
19 The new regional direct rate was codified as King County Code 10.12.021 (a copy of which is  
20 attached as Exhibit O and incorporated by reference).

21           48.     On December 17, 2003, King County sent a letter notifying Rabanco that a \$10  
22 per ton increase in the regional direct rate would take effect on April 1, 2004. This letter is  
23 attached as Exhibit P and incorporated by reference.

1           49.     The new regional direct rate does not take into account that Rabanco must pay  
2 the City of Seattle a disposal tax of \$6.45 per ton for solid waste delivered to Rabanco's  
3 transfer station at Third Avenue South and Lander Street in Seattle. Considering that the  
4 difference between the basic rate of \$82.50 and the new regional direct rate of \$69.50 would  
5 be only \$13, and that \$6.45 of the \$13 would go to pay the Seattle tax, the increase in the  
6 regional direct rate would leave Rabanco with only \$6.55 to cover all of its operating costs at  
7 the transfer station and the additional cost to truck the waste to Cedar Hills. The \$6.55 would  
8 cover neither Rabanco's transfer station costs nor its trucking costs (which King County  
9 admits costs at least \$13.50 per ton at its transfer stations plus transportation, Exhibit D), let  
10 alone allow Rabanco a reasonable profit. Thus, despite the King County Comprehensive  
11 Solid Waste Plan provision recognizing that private haulers such as Rabanco are entitled to a  
12 reasonable profit (Exhibit D), the increase in the regional direct rate would force Rabanco to  
13 take a loss on 150,000 tons of King County MSW taken to its private transfer station.

14     **J.     King County Threatens Rabanco And Refuses To Increase Its Transfer Station**  
15     **Hours.**

16           50.     Rabanco and its affiliates own landfills in Oregon, Montana, and Klickitat  
17 County, Washington. The disposal cost at these facilities, even when including transportation  
18 costs from King County, is roughly half the \$82.50 that King County charges for disposal at  
19 Cedar Hills. The WUTC requires the rate that Rabanco charges its collection customers to  
20 reflect its costs for handling and disposing of MSW. Thus, if Rabanco could use its own  
21 private landfills to dispose of solid waste from King County at such significantly lower costs,  
22 Rabanco could seek lower collection rates from the WUTC, passing these savings onto its  
23 residential and commercial customers in King County.

1           51.     On December 12, 2003, County Executive Ron Sims sent a letter warning  
2 Rabanco to comply with the county's flow control ordinance requiring the disposal of all solid  
3 waste from King County at the county-owned Cedar Hills landfill. This letter is attached as  
4 Exhibit Q and incorporated by reference.

5           52.     On January 4, 2004, King County Solid Waste Division Director Theresa  
6 Jennings sent a letter asking Rabanco to report any anticipated changes in its pattern of using  
7 King County solid waste facilities when the increased regional direct rate becomes effective  
8 on April 1, 2004. This letter is attached as Exhibit R and incorporated by reference.

9           53.     On March 1, 2004, Rabanco notified King County Solid Waste Division that it  
10 intends to stop using its own private transfer stations for MSW collected in unincorporated  
11 King County when the new regional direct rate takes effect on April 1, 2004. Rabanco also  
12 requested that the county-owned transfer stations remain open 24 hours a day, nearly seven  
13 days a week, to accept the "after hours" MSW that Rabanco must collect. This letter is  
14 attached as Exhibit S and incorporated by reference.

15           54.     On March 3, 2004, King County Solid Waste Division Director Theresa  
16 Jennings sent a letter to Rabanco advising that it would not consider keeping its transfer  
17 stations open "24 hours" unless Rabanco provided data supporting its request. As a result,  
18 after June 1, 2004, the only transfer station that King County was planning to leave open past  
19 regular hours was the Bow Lake transfer station on the border of SeaTac and Tukwila, even  
20 though Rabanco also has overnight collection responsibilities in northern and eastern King  
21 County and King County has transfer stations in those areas. The letter also warned Rabanco  
22 that "the County will continue to require that all solid waste generated within the County,  
23 including the cities, be disposed of at County designated facilities and that no solid waste  
24



1 generated within the County be diverted to any out-of-County disposal sites.” This letter is  
2 attached as Exhibit T and incorporated by reference.

3 55. On March 16, 2004, Rabanco sent a letter providing the Solid Waste Division  
4 with additional information supporting its need for “24 hour” access to the county-owned  
5 transfer stations. Specifically, Rabanco provided data establishing that its collection volumes  
6 are steady during weekday routes, and that over 36% of Rabanco’s deliveries to transfer  
7 stations occur between the hours of 5 p.m. and 7 a.m. This letter is attached as Exhibit U and  
8 incorporated by reference.

9 56. On March 18, 2004, King County Solid Waste Division Director Theresa  
10 Jennings sent another letter threatening Rabanco and ignoring the data that Rabanco had  
11 provided. This letter is attached as Exhibit V and incorporated by reference. The letter  
12 reiterated that, after June 1, 2004, King County would only provide overnight hours at the  
13 Bow Lake transfer station located in the southwest King County despite Rabanco’s “after  
14 hours” collection obligations in northern and eastern King County. Once again, the letter  
15 concluded by threatening Rabanco that “all solid waste generated within the County,  
16 including its cities, be disposed of at County designated facilities and that no solid waste  
17 generated within the County be diverted to any out-of-County disposal sites.”

18 **K. Impact on Rabanco**

19 57. King County’s illegal actions will have a devastating impact on Rabanco.  
20 Rabanco’s transfer station has been a part of the county’s solid waste transfer station system  
21 for many years. By increasing the regional direct rate to pay for the sham “rent” obligation,  
22 King County is making it uneconomical for Rabanco to use its own transfer station and  
23 effectively forcing Rabanco to use the county-owned transfer stations, which King County  
24 refuses to keep open during the hours and at the locations Rabanco and its customers need.

1           58. Rabanco's station has operated as a hub for haulers, thereby reducing volumes  
2 at the county-owned stations and providing critical 24-hour service to support night time or  
3 "after hours" collections from restaurants, offices and industrial companies when the county-  
4 owned transfer stations are closed. These off-hour operations have allowed Rabanco to meet  
5 its residential and business customers' needs while accommodating noise constraints  
6 important to local communities. By effectively eliminating this round-the-clock access to  
7 Rabanco's transfer facility, King County's actions threaten to disrupt Rabanco's collection  
8 obligations to the suburban cities, their residents, and businesses. This problem is  
9 exacerbated by King County's decision to reduce the hours at its transfer stations to save  
10 money.

11           59. With its central location and easy access from both Interstate 5 and Interstate  
12 90, the Seattle station also has given Rabanco the flexibility to re-route trucks to its transfer  
13 station when there is daytime traffic congestion in the area of County transfer stations –  
14 reducing the pressure on overcrowded roads in suburban communities, especially during rush  
15 hour. With Rabanco's transfer station no longer an option, all traffic will be diverted to the  
16 suburban county transfer stations, thereby increasing noise and congestion in those  
17 communities. And with no alternative, Rabanco's trucks also will be forced to wait in lines at  
18 the backed up, congested county transfer stations, costing Rabanco work time while  
19 compounding the noise and traffic problems around the transfer stations.

20           60. King County's illegal actions also will require the collection trucks to travel  
21 greater distances. For example, many trucks will have to travel an extra 25 miles and 40  
22 minutes to cover the roundtrip distance between Rabanco's transfer station in Seattle and the  
23 Bow Lake transfer station in south King County, which is the only transfer facility that King  
24 County has offered to keep open on a permanent basis for late night collections. In addition

1 to the greater congestion on county roadways, Rabanco will incur much greater fuel expenses  
2 (at a time of record fuel prices) and increased labor costs to pay for drivers who spend more  
3 time traveling the extra distance (yet still must make all of their stops on collection routes).

4 61. Finally, by compelling Rabanco to close its transfer station to county MSW,  
5 King County is forcing Rabanco to layoff the employees involved in its transfer station  
6 operations who handle MSW from King County, an estimated 12 to 15 positions. This layoff  
7 is scheduled to take effect on March 31, 2004.

8 **V. FIRST CLAIM FOR RELIEF**  
9 **(DECLARATORY AND INJUNCTIVE RELIEF FOR VIOLATION OF STATE**  
10 **ACCOUNTANCY ACT)**

11 62. Rabanco re-alleges and incorporates by reference the allegations in all of the  
12 preceding paragraphs.

13 63. A controversy has arisen between the parties over, among other things,  
14 whether King County's actions to require payment of rent for the Cedar Hills landfill from its  
15 Solid Waste Enterprise Fund and to increase the regional direct rate to pay for this "rent"  
16 obligation violate the State Accountancy Act, RCW 43.09.210.

17 64. King County's actions to require payment of rent for the Cedar Hills landfill  
18 from its Solid Waste Enterprise Fund and to increase the regional direct rate to pay for this  
19 "rent" obligation are illegal because they violate the State Accountancy Act, RCW 43.09.210.

20 65. The State Accountancy Act requires local governments to keep its enterprise  
21 funds, such as the King County Solid Waste Enterprise Fund, separate from its General Fund.

22 66. King County has publicly admitted that the Cedar Hills landfill "is owned and  
23 operated by the King County Solid Waste Division." Exhibit F.

24 67. King County listed the Cedar Hills landfill property as an asset of the Solid  
Waste Enterprise Fund from 1992 until 2002.

1           68.     In 2003, King County transferred the Cedar Hills landfill property to the King  
2 County General Fund without any compensation to the Solid Waste Enterprise Fund. In  
3 doing so, King County did not transfer the real property containing the county's transfer  
4 stations, which remained listed as assets of the Solid Waste Enterprise Fund.

5           69.     King County has publicly admitted that the purpose of imposing the "rent"  
6 obligation (including back rent) on the Solid Waste Enterprise Fund is to "create a long-term  
7 dedicated funding source for human service programs." Exhibit L.

8           70.     King County has also publicly admitted that the purpose of increase in the  
9 regional direct rate is to pay for part of the "rent" obligation. Exhibit M.

10          71.     As a result, King County is illegally redirecting revenue from the Solid Waste  
11 Enterprise Fund to its General Fund to pay for human service programs by imposing a sham  
12 "rent" obligation on the King County Solid Waste Division for use of property that "is owned  
13 and operated by the King County Solid Waste Division."

14          72.     Rabanco will suffer immediate damage and harm if King County's actions are  
15 not declared in violation of the State Accountancy Act.

16          73.     Rabanco requested that the State Attorney General's office take action against  
17 King County for its violation of RCW 43.09.210 with respect to the Cedar Hills Landfill. The  
18 Attorney General's office declined to bring such an action in a letter dated June 15, 2004. A  
19 copy of this letter is attached as Exhibit W and incorporated by reference.

20          74.     Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
21 declaratory ruling from this Court that King County's actions to require payment of rent for  
22 the Cedar Hills landfill from its Solid Waste Enterprise Fund and to increase the regional  
23 direct rate to pay for this "rent" obligation are illegal and unenforceable because they violate  
24 the State Accountancy Act, RCW 43.09.210.



1            *area lying in more than one county, such designation of disposal sites shall be*  
2            *pursuant to an interlocal agreement between the involved counties.*

3 RCW 36.58.040 (emphasis added). As indicated, while RCW 36.58.040 permits a county to  
4 designate a specific disposal site for all solid waste collected in its unincorporated areas, a  
5 county has no authority to designate a disposal site for any solid waste that a private hauler  
6 collects pursuant to a permit from the WUTC covering more than one county unless the  
7 designation of the disposal site is made by an interlocal agreement between the involved  
8 counties.

9            81.        There is no interlocal agreement between King County and Snohomish County  
10 governing the disposal of solid waste.

11            82.        The WUTC has issued a permit authorizing Rabanco to collect solid waste in a  
12 geographic area lying in both King County and Snohomish County.

13            83.        King County has repeatedly threatened Rabanco that it must comply with KCC  
14 10.08.020 by sending all solid waste that it has collected from unincorporated King County to  
15 the county-owned Cedar Hills landfill or else face an enforcement action by King County  
16 “using all available means” and possible repercussions regarding Rabanco’s current and  
17 future business with King County. Exhibits Q, T and V.

18            84.        King County has made these threats despite no legal authority to require the  
19 final disposal of solid waste collected pursuant to Rabanco’s WUTC permit at the county-  
20 owned Cedar Hills landfill.

21            85.        King County has also continued to require the final disposal of solid waste  
22 collected pursuant to Rabanco’s WUTC permit at Cedar Hills even though the cost to dispose  
23 the solid waste at landfills out of the county would be lower than the \$82.50 that King County  
24

1 charges for disposal at Cedar Hills, enabling Rabanco to request a lower rate from the WUTC  
2 for its customers in unincorporated King County.

3 86. Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
4 declaratory ruling from this Court that Rabanco would not violate King County Code  
5 § 10.08.020 if it takes solid waste collected from unincorporated King County to a facility  
6 outside of King County for final disposal.

7 87. Rabanco further requests an injunction enjoining King County from taking any  
8 action to enforce King County Code § 10.08.020 if Rabanco takes solid waste that it has  
9 collected from unincorporated King County to a facility outside of King County for final  
10 disposal.

11 88. If and to the extent King County is not enjoined from enforcing King County  
12 Code § 10.08.020, Rabanco will sustain injury for which it lacks an adequate remedy at law.

13 **VII. THIRD CLAIM FOR RELIEF**  
14 **(INJUNCTIVE AND DECLARATORY RELIEF FOR VIOLATION OF THE KING**  
15 **COUNTY SOLID WASTE COMPREHENSIVE PLAN)**

16 89. Rabanco re-alleges and incorporates by reference the allegations in all of the  
17 preceding paragraphs.

18 90. A controversy has arisen between the parties over, among other things, King  
19 County's violation of its own Comprehensive Solid Waste Management Plan when it raised  
20 the regional direct rate from \$59.50 to \$69.50 without any negotiation with the private  
21 haulers.

22 91. Pursuant to RCW 70.95.080, all counties must have in place a comprehensive  
23 solid waste management plan.

24 92. Chapter 10-10 of the current King County Comprehensive Solid Waste  
Management Plan provides that "it is important to recognize that the privately owned transfer

1 stations are integral to the efficient operation of the solid waste system and, as private  
2 enterprises, are entitled to a reasonable profit.” Exhibit D at 10-10.

3 93. The increase in the regional direct rate from \$59.50 per ton to \$69.50  
4 eliminates any profit from the use of Rabanco’s privately owned transfer station. The  
5 increase in the regional direct rate is forcing Rabanco to close its private transfer station to  
6 solid waste from King County.

7 94. As a result, King County has violated its own Comprehensive Solid Waste  
8 Management Plan.

9 95. Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
10 declaratory ruling from this Court that the increase in the regional direct rate is illegal and  
11 unenforceable.

12 96. Rabanco further requests an injunction enjoining King County from assessing  
13 the increase in the regional direct rate and ordering King County to refund any amount above  
14 \$59.50 per ton that Rabanco has paid to King County.

15 97. If and to the extent King County is not enjoined from violating its own Solid  
16 Waste Comprehensive Plan, Rabanco will sustain injury for which it lacks an adequate  
17 remedy at law.

18 **VIII. FOURTH CLAIM FOR RELIEF**  
19 **(INJUNCTIVE AND DECLARATORY RELIEF FOR VIOLATION OF THE KING**  
20 **COUNTY SOLID WASTE COMPREHENSIVE PLAN)**

21 98. Rabanco re-alleges and incorporates by reference the allegations in all of the  
22 preceding paragraphs.

23 99. Chapter 10-5 of the current King County Comprehensive Solid Waste  
24 Management Plan provides that the regional direct rate “is negotiated” between King County  
and the private haulers. Exhibit D at 10-5.



1           100. King County, however, unilaterally imposed the \$10 increase in the regional  
2 direct rate without any “negotiation” with, and over the objection of, Rabanco.

3           101. As a result, King County has violated its own Comprehensive Solid Waste  
4 Management Plan.

5           102. Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
6 declaratory ruling from this Court that the increase in the regional direct rate is illegal and  
7 unenforceable.

8           103. Rabanco further requests an injunction enjoining King County from assessing  
9 the increase in the regional direct rate and ordering King County to refund any amount above  
10 \$59.50 per ton that Rabanco has paid to King County.

11           104. If and to the extent King County is not enjoined from violating its own Solid  
12 Waste Comprehensive Plan, Rabanco will sustain injury for which it lacks an adequate  
13 remedy at law.

14                                   **IX. FIFTH CLAIM FOR RELIEF**  
15                                   **(DECLARATORY AND INJUNCTIVE RELIEF REGARDING**  
  **UNCONSTITUTIONAL TAX)**

16           105. Rabanco re-alleges and incorporates by reference the allegations in all of the  
17 preceding paragraphs.

18           106. A controversy has arisen between the parties over, among other things,  
19 whether the increase in the regional direct rate is an unconstitutional tax.

20           107. King County’s increase in the regional direct rate under King County  
21 Ordinance § 10.12.021 is unconstitutional because it violates Article 7, Sections 1 and 5 of the  
22 Washington Constitution.

1           108. Pursuant to Article 7, Sections 1 and 5 of the Washington Constitution,  
2 counties have no power to levy taxes except when expressly authorized by the state  
3 constitution or state statute.

4           109. Neither the state constitution nor a state statute has authorized King County to  
5 levy a tax on the disposal of solid waste.

6           110. King County has publicly admitted that the purpose of the increase in the  
7 regional direct rate (through the Cedar Hills "rent" obligation) is to pay for human service  
8 programs, not for services or programs related to solid waste.

9           111. The money collected from the regional direct rate is allocated to pay for human  
10 service programs, not programs related to solid waste.

11           112. There is no direct relationship between the increase in the regional direct rate  
12 for disposal of solid waste and the funding of human service programs.

13           113. Because King County raised the regional direct fee to pay for human services,  
14 not for services or programs related to solid waste, the \$10 increase in the regional direct rate  
15 is an unconstitutional tax.

16           114. Rabanco will suffer immediate damage and harm if the increase in the regional  
17 direct rate is not declared unconstitutional.

18           115. Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
19 declaratory ruling from this Court that the increase in the regional direct rate under King  
20 County Ordinance § 10.12.021 is unconstitutional because it violates Article 7, Sections 1 and  
21 5 of the Washington Constitution.

22           116. Rabanco further requests an injunction enjoining King County from assessing  
23 the increase in the regional direct rate and ordering King County to refund any amount above  
24 \$59.50 per ton that Rabanco has paid to King County.

1           117. If and to the extent that such injunctive relief is not ordered, Rabanco will  
2 sustain injury for which it lacks an adequate remedy at law.

3                                   **X. SIXTH CLAIM FOR RELIEF**  
4                                   **(VIOLATION OF SUBSTANTIVE DUE PROCESS)**

5           118. Rabanco re-alleges and incorporates by reference the allegations in all of the  
6 preceding paragraphs.

7           119. A controversy has arisen between the parties over, among other things,  
8 whether the increase in the regional direct rate is unconstitutional.

9           120. King County's increase in the regional direct rate under King County  
10 Ordinance § 10.12.021 is unconstitutional because it violates substantive due process under  
11 the Fifth and Fourteenth Amendments to the United States Constitution and because it  
12 exceeds King County's police power under Article 11, Section 11 of the Washington  
13 Constitution.

14           121. King County's increase in the regional direct rate violates substantive due  
15 process because the increase in a solid waste disposal fee to pay for a sham rent obligation is  
16 arbitrary and capricious, is not aimed at a legitimate public purpose, is using means that are  
17 not reasonably necessary, and is unduly oppressive on Rabanco.

18           122. Rabanco will suffer immediate damage and harm if the increase in the regional  
19 direct rate is not declared unconstitutional.

20           123. Pursuant to RCW 7.24.010-.190 and Civil Rule 57, Rabanco requests a  
21 declaratory ruling from this Court that the increase in the regional direct rate under King  
22 County Ordinance § 10.12.021 is unconstitutional because it violates substantive due process.



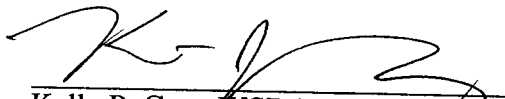
1 f. For a permanent injunction enjoining King County from requiring the  
2 payment of rent for the Cedar Hills Landfill from its Solid Waste Enterprise Fund and  
3 assessing the increase in the regional direct rate, and ordering King County to refund any  
4 amount above \$59.50 per ton that Rabanco has paid to King County; and

5 g. For an award of disbursements and costs incurred by Rabanco in this  
6 action; and

7 h. For such other and further relief as the Court deems just and proper.  
8

9 DATED this 26<sup>th</sup> day of June, 2004.

10 CORR CRONIN, LLP

11  
12   
13 Kelly P. Corr, WSBA No. 00555  
14 Kevin J. Craig, WSBA No. 29932  
15 Attorneys for Plaintiff Rabanco Ltd.

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**EXHIBIT A**

SOLID WASTE SITES

10.08.020

Chapter 10.08  
SOLID WASTE SITES<sup>1</sup>

Sections:

- 10.08.020 System of disposal.
- 10.08.030 Acquisition of solid waste disposal facilities.
- 10.08.040 Operation of solid waste disposal facilities by county.
- 10.08.050 Use of county disposal facilities.
- 10.08.060 Establishment and operation of solid waste disposal.
- 10.08.070 Exempt operations.
- 10.08.080 Recycling.
- 10.08.090 Solid waste disposal site permit - regulations.
- 10.08.100 Enforcement.
- 10.08.110 Penalties.
- 10.08.120 Severability.
- 10.08.130 Interlocal agreements.
- 10.08.140 Reporting.
- 10.08.150 Reporting by solid waste division.

**10.08.020 System of disposal.**

A. Under the authority provided by the King County Charter and RCW 36.58.040, a system is hereby established for disposal of all solid waste either generated, collected or disposed, in unincorporated King County. Additionally, this system shall include all solid waste either generated or collected, or both, in any other jurisdictions with which an interlocal agreement exists under K.C.C. 10.08.130.

B. It is unlawful for any person to dispose of county solid waste except at disposal facilities and in a manner authorized under this title.

C. Unless specifically authorized by a King County ordinance, it is unlawful for any commercial hauler or other person or entity to deliver any county solid waste to a place other than a disposal facility designated by the county to receive the particular waste.

D. ~~It is unlawful for any person to deliver county solid waste other than unauthorized waste as determined by the manager to any facility for final disposal other than the county-owned Cedar Hills regional landfill, unless the manager has provided prior written authorization for the disposal for public health, safety, welfare or planning purposes and the disposal is consistent with the adopted King County Solid Waste Comprehensive Plan. (Ord. 14811 § 9, 2003; Ord. 8891 § 13, 1989; Ord. 7708 § 1 (part), 1986).~~

**EXHIBIT B**



## **Chapter Seven**

# **Services, Facilities and Utilities**

The Growth Management Act requires coordinated planning so that the services required by new residents and their homes and businesses are available as growth occurs. Needed services include many that are not provided by King County, such as water supply, local sanitary sewers, fire protection, schools, energy facilities, and telecommunications. King County does provide services such as regional wastewater treatment, regional solid waste management, and local stormwater management. This chapter contains policies that guide service provision.

provider, that any sewer service permitted for the school district is designed only to serve public schools or public school facilities. Public sewers which are allowed in the Rural Area or on Natural Resource Lands pursuant to this policy shall not be used to convert Rural Area land or Natural Resource Lands to urban uses and densities or to expand permitted non-residential uses.

F-243

Sewer facilities such as pump stations, force mains and trunk lines that do not provide connections to the Rural Area may be located in the Rural Area only when they are identified in a King County-approved comprehensive sewage system plan and upon a finding by King County that it is technically necessary in providing service to the Urban Growth Area.

F-244

On-site wastewater treatment systems in the Rural Area and Natural Resource Lands should be designed, built and operated as permanent methods of sewage disposal.

F-245

King County should monitor on-site systems that have shown evidence of failure or potential for failure. The data should be used to correct existing problems and prevent future problems. King County should analyze public funding options for correcting on-site wastewater system failures which may include, where feasible and otherwise consistent with this Plan, conversion to community sewage systems or installation of public sewers.

F-246

Collective on-site systems may be used only in the following circumstances in the Rural Area and Natural Resource Lands:

- a. Existing on-site systems are failing within an area and the Seattle/King County Department of Public Health concurs that long-term individual on-site system repairs are not feasible and/or water quality is threatened by the presence of or potential for health hazards resulting from inadequate on-site wastewater disposal methods;
- b. An authorized public agency will manage the community system; and
- c. The community system is designed only to serve existing structures and lots and cannot be used as a basis to increase density or to expand permitted non-residential uses. Sub-standard vacant lots must be combined to the extent feasible to meet rural density policies. Management of the community system must be by an authorized public agency.

## J. Solid Waste

Appropriate management of solid waste to protect the environment of King County is essential to public health. Responsibility for management of solid wastes generated by unincorporated area residents and businesses is shared by waste haulers certified by the Washington Utilities and Transportation Commission and the King County Solid Waste Division.

F-247

Solid waste should be handled and disposed of in environmentally sound ways that protect the quality of air, water and public health.

F-248

King County shall divert as much material as possible from disposal to reduce the overall costs of solid waste management to county residents and businesses, conserve resources, protect the environment, and strengthen the county's economy.

F-249

Solid waste management should be planned and disposal capacity provided on a regional basis.

F-250

Solid waste handling facilities should be dispersed throughout the County in an equitable manner.

## **K. Surface Water Management**

Surface water management activities address both the quantity and quality of water entering the natural environment. Urban areas are largely covered with impervious surfaces (e.g., buildings, streets, parking lots) that cause increased runoff and are a source of pollutants. Management in the Rural Area is important, too, because of the potential adverse impacts of forestry, agricultural, and livestock practices. Prevention or mitigation of flooding, erosion, sedimentation, and water quality and habitat degradation is important for both the built and natural environments.

F-251

To reduce flooding, erosion and sedimentation, prevent and mitigate habitat loss, enhance ground water recharge and prevent water quality degradation, the surface waters of King County shall be managed through plans, programs and regulations developed by King County in cooperation with affected jurisdictions whenever possible.

F-252

A watershed approach shall be taken to surface water management, with responsibility shared among King County and affected jurisdictions. This approach should emphasize prevention of water quality degradation through education programs and implementation of Best Management Practices to reduce pollution entering surface waters, including Puget Sound.

F-253

In the Rural Area, King County shall minimize the use of constructed facilities for surface water management and maximize the use of natural systems, provided that the ecological functions of the natural systems are not harmed. The County should provide incentives to keep these natural systems intact. Natural systems are also preferred in the Urban Growth Area, but it is recognized that structural systems will be needed to realize urban growth and density goals. King County will plan and manage surface waters on a watershed basis pursuant to Policies E-120 through E-125. To accomplish this goal, water should not be diverted from one watershed into another, nor from one drainage basin into another, unless no other reasonable alternative is available for managing surface water run-off within the same watershed and drainage basin. Where such diversions are permitted, King County will require such environmental analysis and mitigation as is needed to protect surface water resources from significant adverse impacts.

F-254

In the Urban Growth Area, regional and shared surface water management facilities should be encouraged to support infill development to preclude the need for individual on-site facilities, provide development incentives, encourage efficient use of land, and reduce overall facility maintenance costs. These facilities should be planned and financed through public and private partnerships.

F-255

Regional and shared stormwater facilities should be funded through an adequate and equitable funding mechanism. Stormwater facilities required of new development should be designed and built for low-cost, long-term maintenance.

**EXHIBIT C**

**COPY**

REC NO. 34673

CITY OF BELLEVUE

DATE 11/4/03

M. TOMKO  
CITY CLERK'S OFFICE

CCO FILE# 04-40

**Comprehensive Garbage, Recyclables, Yard Debris and  
Organic Waste Collection Contract De 8 6922**

**City of Bellevue  
and  
Rabanco, Ltd., dba Eastside Disposal Company**

**April 1, 2004 – March 31, 2011**

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.

If the Contractor believes that there is a probability of Private Road damage, the Contractor shall inform the respective customers and may require a damage waiver agreement, that has been previously approved by the City, or decline to provide service on those Private Roads.

### **3.1.4 Hours/Days of Collection**

All collections in Single-family Residence and Multifamily Complex areas shall be made between the hours of 7:00 a.m. and 6:00 p.m. on a consistent weekday, unless the City authorizes a temporary extension of hours or days. Same-day make-up collections for customers notifying the Contractor of a missed collection by 6:00 p.m. may be performed until 8:00 p.m. Saturday collection is allowed to the extent consistent with make-up collections, and holiday and inclement weather schedules.

All collections from Commercial Customers shall be made between the hours of 5:00 a.m. and midnight, with the exception of customers near areas zoned residential, which shall be made between the hours of 7:00 a.m. and 6:00 p.m. Exemptions to the hour requirements may be granted in writing by the City to accommodate the special needs of Commercial Customers. The City's noise ordinance, as amended from time to time, may further restrict these terms and hours of collection. Collections from Commercial Customers shall occur based on customer needs and prior arrangement Monday through Friday, with Saturday collections allowed as needed to maintain adequate service.

### **3.1.5 Employee Conduct**

The Contractor's employees collecting Garbage, Recyclables, Yard Debris and Organic Waste 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 carts or containers. Employees shall not trespass or loiter, cross flower beds, hedges or property of adjoining premises, or meddle with property that does not concern them or their task at hand. While performing work under the Contract, employees shall wear a professional and presentable uniform with an identifying badge with photo and company emblem visible to the average observer. At the City's option and direction, the Contractor's employees collecting Garbage, Recyclables, Yard Debris and Organic Waste throughout the City shall work with groups or organizations, such as City neighborhood community organizations, or the City's Utilities, Police and Fire Departments, in order to be trained to recognize and call the appropriate agency when suspicious activities are observed.

If any person employed by the Contractor to perform collection services is, in the opinion of the City, incompetent, disorderly or otherwise unsatisfactory, the City shall promptly document the incompetent, disorderly or unsatisfactory conduct in writing and transmit the documentation to the Contractor with a demand that such conduct be corrected. The Contractor shall promptly investigate any written complaint from the City regarding any unsatisfactory performance by any

**7.18 Waiver**

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

**7.19 Non-Discrimination**

The Contactor shall not discriminate against any employee or applicant for employment or any other person in the performance of this Contract because of race, creed, color, national origin, marital status, gender, disability or other circumstance prohibited by federal, state or local law or ordinance, except for a bona fide occupational qualification.

**7.20 Disputes Resolution**

The parties shall attempt to resolve any and all disputes to the mutual satisfaction of both parties by good faith negotiations. Throughout the duration of a dispute, the Contractor shall continue providing all services included in this Contract. Disputes not resolved in accordance with other provisions of this Contract or through good faith negotiations shall, within one (1) year of first notification of such dispute, be submitted to non-binding mediation before one (1) mediator selected from a list of mediators acceptable to both the City and the Contractor. The laws of the state of Washington shall apply to any dispute. The parties reserve the right to seek review of any dispute. All costs of mediation, including attorney's fees, shall be paid for by the Contractor.

**7.21 Incorporation of Attachment F – Questions to Proponents**

The answers given by the Contractor to the questions presented in Attachment F to this Contract are incorporated herein by this reference.

**7.22 Entirety**

This Contract and the attachments attached hereto and incorporated herein by this reference, specifically Attachments A-F, represent the entire agreement of the City and the Contractor with respect to the services to be provided under this Contract. No prior written or oral statement or proposal shall alter any term or provision of this Contract.

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

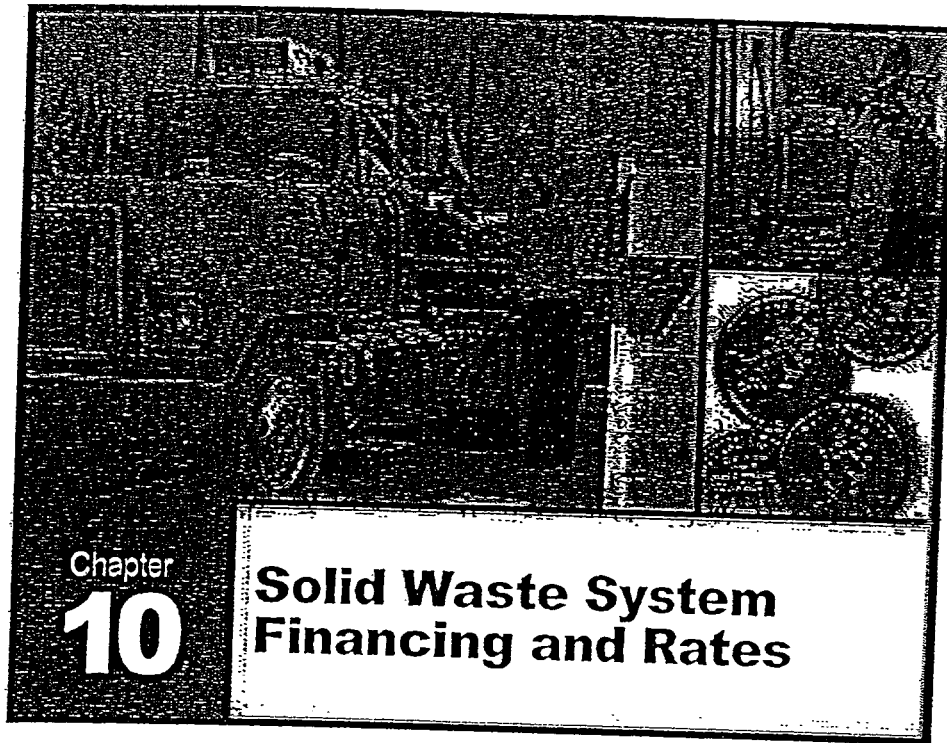
Rabanco, Ltd.  
By [Signature]

CITY OF BELLEVUE  
By [Signature]  
Steve Sarkozy, City Manager

Approved as to Form:  
By [Signature]  
City Attorney

**EXHIBIT D**





Funding mechanisms for solid waste systems vary dramatically in different areas of the country. In some areas, solid waste services and programs are paid for through general property tax revenues. Because funding is achieved through the tax structure in these areas, citizens do not necessarily make a direct connection between the cost of handling solid waste and the amount of garbage they throw away.

In King County, virtually all of the solid waste services and programs are paid for directly by the users of the system in the form of fees for garbage collection and disposal. These fees pay for services and facilities, educational and informational programs, and the development of regional policy. When citizens can make a direct connection between solid waste disposal and its associated costs, they are more likely to see the effects of positive behaviors such as waste reduction and recycling.

With this Plan, the County has sought active participation from the users of the regional solid waste system in planning for the future. During development of the Plan, Solid Waste Division staff met with the public, cities, and private solid waste management companies to hear their ideas about the future of solid waste services and programs. Where rates are concerned, the public expressed a general desire to keep them as low as possible.

Station in Bellevue pay the same amount as those at the Cedar Falls Drop Box near North Bend, even though the cost of providing the service at each facility is not the same. Average system cost includes the total cost of all solid waste programs and services. The basic fee covers all of these costs except for funding from the regional direct fee and a limited contribution from the other funding sources shown in Figure 10-1.

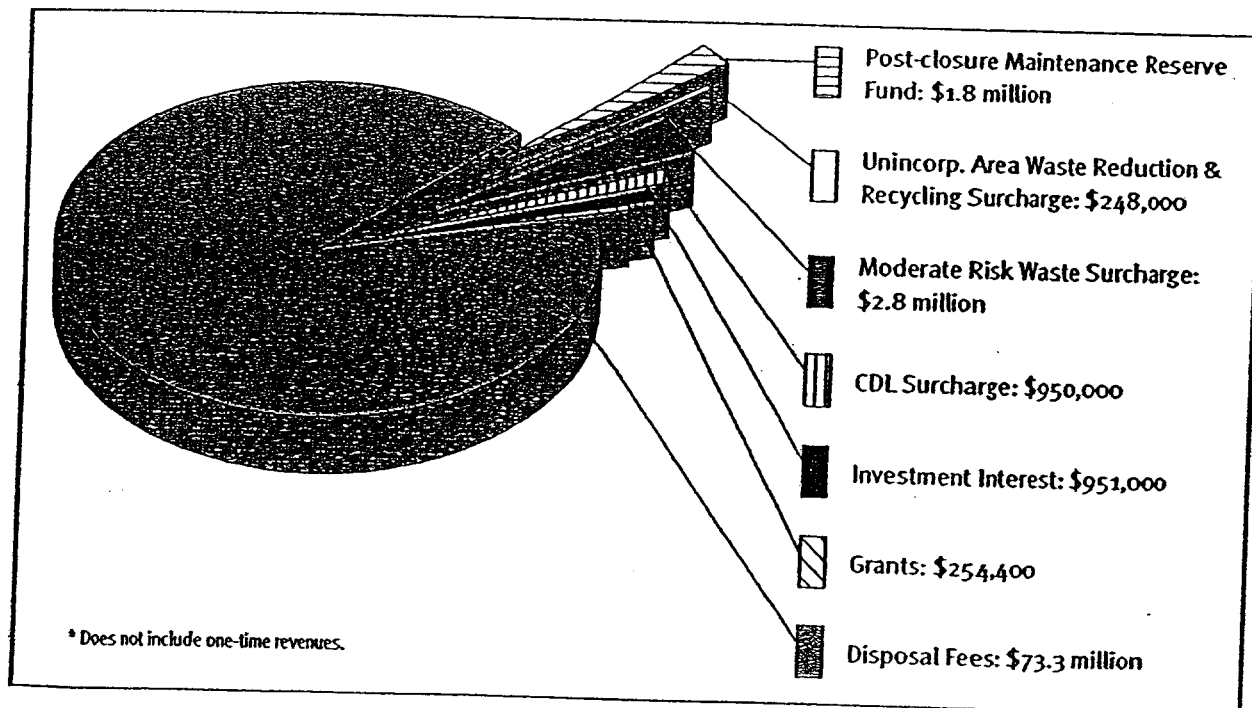
The other tipping fee is called the regional direct fee, which is currently \$59.50 per ton. The regional direct fee is charged to the private collection companies authorized to transport waste directly to the Cedar Hills Regional Landfill from their own private transfer stations or processing facilities. The regional direct fee is a rate negotiated between the private companies and the County that covers the full cost of disposal at Cedar Hills but only some of the costs of services and programs that are provided by the Solid Waste Division.

Based on the tonnage forecast presented in Chapter 3 of this Plan, an increase in the tipping fee is not anticipated until at least 2005. This projection assumes that there are no substantial changes in the rate of inflation, projected tonnage, areas of expenditure, or other forecast assumptions.

### Revenues from Other Sources

As stated earlier, the County receives some revenue from sources other than the tipping fees to fund specific programs or operations. These revenue sources are described below.

Figure 10-1. Funding Sources for Solid Waste Division Operations in 2000\*





▲ Reducing the regional direct fee margin may affect private collection companies' choice of transfer stations

them to bypass County facilities. The savings to the County for loads that bypass County-owned transfer stations averages about \$13.50 per ton, but the loss in gross revenue is \$23.00.

The result is that for each ton of waste that goes to the private transfer stations, and is subject to the regional direct fee at the landfill, there is a net revenue loss to the County of \$9.50 per ton. All ratepayers pay about \$2 more per ton for disposal than they would if the private companies hauled waste to the closest transfer station.

One method for addressing this issue is in the hands of the cities. As discussed in detail in Chapter 5, through their collection contracts with the private companies, the cities

could incorporate language that would require that solid waste be taken to the designated, closest transfer station. A significant shift in tonnage from regional direct activity to the closer, County-owned transfer stations would reduce or delay the need for a rate increase. The effect on the current tipping fee (based on year 2000 costs) that would result from a reduction in regional direct tonnage with no change in the fee margin would be as follows:

	Existing Regional Direct Activity	With Use of the Closest Transfer Station
<b>Regional Direct Tons</b>	<b>228,000</b>	<b>19,000</b>
Regional Direct Fee	\$59.50	\$57.40
Fee Margin	\$23.00	\$23.00
Basic Fee	\$82.50	\$80.40

Note: Figures based on existing rates and the Solid Waste Division budget for 2000.

In considering alternatives to the current regional direct fee, such as the reduced fee margin discussed below, it is important to recognize that the privately owned transfer stations are integral to the efficient operation of the solid waste system and, as private enterprises, are entitled to a reasonable profit.

**Alternative – Reduce Regional Direct Fee Margin:**

One alternative to address this issue through the rate structure is to reduce the difference between the regional direct fee and the basic fee so that the difference equals the marginal cost of transfer. Under this alternative, ratepayers would not be financially impacted by the private collection companies' choice of transfer station, and the basic fee could be reduced.

The increased cost to County ratepayers that results when the private collection companies use their own transfer stations would be eliminated if the fee margin was reduced to the \$13.50-per-ton marginal (or variable) cost of operating the County-owned transfer stations. Based on the 2000 budget, this rate change would reduce the basic fee and increase the regional direct fee as follows:

**EXHIBIT E**

Brad Lovaas

From: Gene Eckhardt [geckhard@wutc.wa.gov]  
Sent: Monday, November 17, 2003 10:24 AM  
To: brad@wrra.org  
Subject: Fw: UTC Regulation - Solid Waste Collection in King County



WM\_SnoKingRabanco\_AR.WM\_Revenue G12\_Rabanc  
.pdf pdf s.pdf o.pdf

Eugene K. Eckhardt  
Assistant Director of Water and Transportation  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250  
Tel: (360) 664-1249  
FAX: (360) 586-1150  
E-mail: geckhard@wutc.wa.gov

----- Forwarded by Gene Eckhardt/WUTC on 11/17/2003 10:22 AM -----

Gene  
Eckhardt/WUTC

11/12/2003 01:25  
PM

kervin@seattletimes.com

To

cc

Subject  
Fw: UTC Regulation - Solid Waste  
Collection in King County

Eugene K. Eckhardt  
Assistant Director of Water and Transportation  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250  
Tel: (360) 664-1249  
FAX: (360) 586-1150  
E-mail: geckhard@wutc.wa.gov

----- Forwarded by Gene Eckhardt/WUTC on 11/12/2003 01:14 PM -----

Gene  
Eckhardt/WUTC

11/05/2003 04:50  
PM

"Freeman, Karen"  
<Karen.Freeman@METROKC.GOV>, "Reed,  
Bill" <Bill.Reed@METROKC.GOV>

To

cc

"Scholes, Jon"  
<Jon.Scholes@METROKC.GOV>

"Patterson, Julia"  
<Julia.Patterson@METROK.COV>,  
Utilities Transportation Section  
Subject  
UTC Regulation - Solid Waste  
Collection in King County.

Staff received inquiries from King County Solid Waste Staff and two different King County Council Staff regarding the Commission's regulation of solid waste collection. Some callers are more familiar with the Commission's role than others and each of the inquiries had a little different perspective. I think the following responds to all of the questions. If not, we are available to discuss these matters with you.

Waste Management and Rabanco provide solid waste collection services in unincorporated King County under authority of the Washington Utilities and Transportation Commission (Commission). Both Waste Management and Rabanco, like most solid waste collection companies, conduct nonregulated operations such as; commercial recycling services, solid waste collection services under contract with cities (City of Seattle), and affiliated, nonregulated activities (recycling processing, transfer station operation, landfill operation, long haul service, etc.).

The Commission also sets the rates that regulated companies can charge for regulated solid waste collection services. The Commission is charged by statute to set rates that are fair, just, reasonable, and sufficient. In very simple terms, that means regulated companies are entitled to charge rates that recover prudent, reasonably incurred expenses and provide the company an opportunity to earn a reasonable return. To determine expenses, we use an historical twelve-month test period, adjusted to reflect known and measurable changes in expenses that have occurred since the test period, or will occur in the near future. Rates are set on a prospective basis, so the company is not guaranteed to make a profit. The Commission's auditors review the company's books and records to determine appropriate expenses for regulated solid waste customers. The Commission sets a company's target revenue requirement using a financial model based upon capital structure, investment, and turnover ratio (gross revenue over net rate base). Rates are designed to generate the target revenue requirement.

The cost of disposal represents the largest single expense incurred by solid waste collection companies. Statutes require the Commission to treat disposal costs differently than other operating costs. RCW 81.77.160 requires the Commission to "pass-through" disposal cost increases to consumers without offsetting them by other cost changes or operations changes. Therefore, Staff does not audit financial records for a pass-through disposal filing; instead, Staff updates the last audited test period to reflect the increased disposal fees.

Before July 1997, the Commission set rates using the company's actual cost of operating affiliated transfer stations. For example, in Docket TG-970223, Waste Management of Seattle filed rates to become effective April 1, 1997. The rate at the King County transfer station was \$74.25. Staff used \$71.13, the cost of operating the Eastmont transfer station, to set rates.

Since July 1997, RCW 81.77.160(3) has required the Commission to allow haulers to recover disposal costs (including waste transfer, transport, and disposal charges) that are less than or equal to a reasonable and currently available option. This statute created a market test that allows haulers

to recover stated costs equal to the reasonable alternative, in this case, is the King County system. All regulated solid waste companies operating in King County increased their disposal fees to \$82.50 effective January 1, 1999. The following table shows the test periods used for those pass-through filings.

Company	Updated Test Period Ended
Eastside Disposal (Rabanco)	June 30, 1995
Meridian Disposal (Rabanco)	June 30, 1994
SeaTac Disposal (Rabanco)	June 30, 1996
SnoKing (Waste Management)	December 31, 1995
Rainier (Waste Management)	March 31, 1997
RST (Waste Management)	December 31, 1997
Raffo (Waste Management)	September 30, 1996

In addition, the following companies filed general rate increases since January 1, 1999.

Company	Audited Test Period Ended
SnoKing (Waste Management)	December 31, 2002
Rainier (Waste Management) RST (Waste Management) Raffo (Waste Management)	December 31, 2001

A collection vehicle can take the waste directly to the landfill or deliver the waste to a transfer station for consolidation and transportation to the landfill. Ownership of the transfer stations and the landfill may be public, private, or a mix. In King County, there is a mix of ownership. King County owns the landfill (Cedar Hills) and various transfer stations located throughout the county. Waste Management owns and operates the Eastmont transfer station located in South Seattle and Rabanco owns and operates the 3rd & Lander Material Recovery Facility, also located in South Seattle.

I understand that both nonregulated (Seattle, etc.) waste and regulated (unincorporated King County) waste goes to both the Waste Management and Rabanco transfer stations. I also understand that the City of Seattle assesses Waste Management and Rabanco a tax of \$6.25 per ton of non-Seattle waste delivered to the Waste Management and Rabanco transfer stations within the City of Seattle.

King County charges solid waste collection companies \$82.50 per ton for waste delivered to the County's transfer stations and \$59.50 per ton for waste delivered to the County's Cedar Hill Landfill. I understand that King County is contemplating increasing the disposal fee that solid waste collection companies would pay for waste delivered to the County's Cedar Hill Landfill.

King County increases the \$82.50 disposal fee charged to solid waste collection companies that deliver waste to the King County Transfer Stations, the resulting disposal fee would set the new market test and the increase would flow through, dollar for dollar, directly to regulated rate

payers:

If King County increases only the \$59.50 disposal fee charged to solid waste collection companies that deliver waste to the Cedar Hill Landfill, Staff does not think that increase would flow through to regulated solid waste customers because those customers currently pay rates that include the full cost of \$82.50, the reasonable and currently available alternative. Increasing the \$59.50 disposal fee may cause a solid waste collection company to change its operation in some way that could affect rates charged to regulated customers, but Staff is not aware of any such changes at this time. Before a company could pass increased costs onto customers, the company would need to file a proposed rate increase with the Commission and demonstrate to the Commission that it needs additional revenue.

I attached the following financial information as pdf files:

Company	Report	Status
SeaTac Disposal (Rabanco) Eastside Disposal (Rabanco)	2002 Annual Report	Not Audited
Meridian Disposal (Rabanco)	2002 Annual Report	Not Audited
SnoKing (Waste Management)	Results of Operations Test Year Ended December 31, 2002	Audited
Rainier (Waste Management) RST (Waste Management) Raffo (Waste Management)	Results of Operations Test Year Ended December 31, 2001	Audited

you have additional questions, please let me know.

These are Staff's opinions and are not binding on the Commission. Additional information or different circumstances may cause Staff to change its opinion.

(See attached file: WM\_SnoKing.pdf) (See attached file: Rabanco\_AR.pdf) (See attached file: WM\_Revenues.pdf) (See attached file: G12\_Rabanco.pdf)

Eugene K. Eckhardt  
Assistant Director of Water and Transportation  
Washington Utilities and Transportation Commission  
PO Box 47250  
Olympia, WA 98504-7250  
Tel: (360) 664-1249  
FAX: (360) 586-1150  
E-mail: geckhard@wutc.wa.gov



**EXHIBIT F**



## Cedar Hills Landfill



### Background

- The Cedar Hills Regional Landfill handles 100% of the mixed solid waste generated in King County, exclusive of that generated within the City of Seattle. The landfill is located 20 miles southeast of Seattle and is owned and operated by the King County Solid Waste Division.
- Cedar Hills operates under a Special Use Permit issued in 1960. This permit established a 1,000 foot buffer around the solid waste handling activities. The Permit was modified in 1967 to allow for the construction of the Alcohol Treatment Center.
- The unclassified use permit process now governs land use activities at Cedar Hills. Any modification to the buffer requirement would now require an unclassified use permit.
- Cedar Hills occupies 920 acres with approximately 406 acres available for landfilling and support functions.
- In 2002, 939,488 tons of waste were delivered in 51,058 loads. In order to ensure that unacceptable wastes are not delivered to the landfill, we screen incoming loads. 2,436 incoming loads were examined, and 91% were found to meet all requirements. In addition, 10,115 loads were screened at the Division's 8 transfer stations and one drop box. 98% of all loads screened were found to meet all requirements.

### Landfill Operation

- The landfill is developed in discrete areas which are developed by excavating and lining large holes.
- Soil removed from the excavation is stockpiled on-site in large mounds. The soil stockpile is used to cover solid waste brought on-site each day - daily cover.
- When areas are complete, engineered final cover is applied. Soil excavated on-site is used for this purpose.
- The most efficient operation balances soil excavation with daily and final cover needs.
- On closure, a 30-year post-closure monitoring period is specified by Federal,


State and Local regulations.

- The Solid Waste Division is responsible for ensuring the environmental compliance of its operating landfills, 10 former landfill properties, 8 transfer stations and 2 drop boxes. In 1998, we accomplished this by collecting and analyzing 336 groundwater samples from 90 wells, 193 surface water samples from 58 locations, and 2672 samples to analyze for landfill gas.

#### Current Cedar Hills Land Use Permit Requirements

- Buffer condition requires that soil stockpiles and support facilities do not encroach on buffer.
  - Available landfill capacity = 10 million tons or approximately 9 years.
- 

#### Comments, Questions, Concerns or Updates?

 [Please send an e-mail](#)

Updated: May 14, 2003

[Solid Waste Division Home Page](#) | [Department of Natural Resources and Parks](#) | [King County](#) | [News](#)  
| [Services](#) | [Comments](#) | [Search](#)

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By visiting this and other King County web pages,  
you expressly agree to be bound by terms and conditions of the site.

[The details.](#)

**EXHIBIT G**

RECEIVED  
MAY 31 1968

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
BERT L. COLE, Commissioner of Public Lands

(59010)

Application No. 55-1-  
59010 LEASE NO. \_\_\_\_\_

THIS LEASE, Made and entered into this 3<sup>rd</sup> day of July, 1968, by and between the State of Washington, acting by and through the Department of Natural Resources, hereinafter called the State, and KING COUNTY, acting by and through its Board of County Commissioners, hereinafter called the Lessee, WITNESSETH:

The State, for and in consideration of payments hereinafter provided and other valuable considerations and the covenants and agreements hereinafter contained, hereby demises, lets, and leases unto the Lessee the following described lands situate in King County, Washington, to wit:

All, except NE $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 21 and NE $\frac{1}{2}$ , Section 28, all in Township 23 North, Range 6 East, W. M., containing 920 acres, more or less, [according to the government survey thereof.]  
Subject to easements for rights of way for transmission lines heretofore granted under Application Nos. F-3901, F-3980, F-4327, F-5305, 30656 and 31326.

SECTION 1. OCCUPANCY

1.01 Original Term. The Lessee shall have and hold the said premises for the term beginning the 1st day of April, 1968, through the 31st day of March, 2023.

SECTION 2. PAYMENT

2.01 Amount. The Lessee shall pay to the State, in advance, an annual rental of Four Hundred Sixty Dollars (\$460.00) for the premises.

2.02 Where Payable. The annual rentals shall be payable to the State at the office of the Commissioner of Public Lands, Public Lands-Social Security Building, Post Office Box 168, Olympia, Washington 98501.

SECTION 3. USE OF THE PREMISES

3.01 Permitted Use. The premises shall be utilized exclusively for uses of public recreation, for a facility for the treatment and rehabilitation of alcoholics and other afflicted persons, for a sanitary disposal site, and for any other use approved in writing by the State. Portions of the premises shall be devoted to each of the foregoing uses in accordance with the plan of development required by Section 4.01, below. This lease is executed by the State under the authority of RCW 79.01.414.

3.02 Restrictions on Use. In connection with the use of the premises, the Lessee shall:

- (1) Conform to applicable laws and regulations of any public authority affecting the premises and the use, and correct at the Lessee's own expense any failure of compliance created through the Lessee's use;
- (2) Remove no valuable material and cut no trees without the prior written consent of the State;
- (3) Prohibit discrimination against any person because of race, religion, color or national origin;
- (4) No littering of the area shall be permitted. Said premises shall be kept free of debris.

3.03 Reservations. In connection with the use of the premises the State shall:

- (1) Have access to the premises at all reasonable times for the purpose of securing compliance with the terms and conditions of this lease. The State reserves the right to grant easements across the premises to others where the grant does not unreasonably interfere with the Lessee's use of the premises. No easement shall be granted which will destroy the facilities.
- (2) Reserve the right to continue to manage, sell, or lease forest, mineral and oil and gas resources under the jurisdiction of the State within the limits as set forth in 3.01 and 3.02.

SECTION 4. OPERATION OF PREMISES

4.01 Development Plan. Before the Lessee develops the premises, a general plan of development must be submitted to the State and have the States' written approval. Said plan is to encompass, but is not limited to, the following features:

(1) Schedule of development for disposal site, recreational facilities and alcoholic facilities and fitting within the frame work of available financing. Said schedule may be altered as needed to fulfill recreational needs, and necessary financing.

4.02 Lessee Administrator. The Lessee will appoint one person who will be responsible for the over all management of the premises and this lease.

SECTION 5. IMPROVEMENTS

5.01 Authorization for Improvements. The Lessee is authorized to develop and install improvements as shown on the plan of development and authorized in writing by the State.

5.02 Ownership of Improvements. All improvements made on or to the leased premises by the Lessee shall become the property of the State:

(1) At the time the improvement is made if it be made without the prior written consent of the State;

(2) At the time of termination if this lease be terminated by reason of the default of the Lessee;

(3) At a future date as set forth in the letter of authorization for the improvement;

(4) At the expiration of the lease term.

5.03 Removal. Improvements on the premises at time of issuance of this lease and those made on or to the leased premises shall not be removed without the prior written consent of the State.

5.04 Improvements Defined. "Improvements" mean anything considered a fixture in law placed upon or attached to the leased premises or any change made in their previous condition that has added value to the lands.

SECTION 6. REPAIRS

6.01 Duty. The Lessee shall at all times keep or cause all improvements (regardless of ownership) to be kept in as good condition and repair as originally constructed or as hereafter put, except for reasonable current wear and tear. In all cases the premises and improvements shall be maintained at a standard acceptable to the use.

6.02 Cost. All repairs shall be made at the sole cost and expense of the Lessee.

SECTION 7. CONDITION OF PREMISES AND LIABILITY

7.01 Condition of Premises and Liability. The premises have been inspected by the Lessee and are accepted in their present condition. Lessee agrees to defend and hold the State harmless from any and all claims suffered or alleged to be suffered on the premises or arising out of operations on the premises. Closure of all or a portion of the area near or surrounding the premises for any reason beyond the control of the State or closure by the State or other agency of the State of Washington because of fire hazard shall not be a basis of claim against the State.

SECTION 8. FIRE

8.01 Fire Prevention. Fire prevention and control shall be the responsibility of the Lessee. Every reasonable precaution shall be taken to prevent fires from starting. If fire does break out, it shall be controlled and extinguished as soon as possible by the Lessee.

The Lessee must contact the States local District Administrator whose office is located in North Bend to obtain requirements for fire prevention and fire control. Said administrator will give to the Lessee a written list of requirements to which the Lessee must adhere. Written list will include but, is not limited to the following items;

- (1) Fire break requirements and location;
- (2) Water storage and pump requirements;
- (3) Watchman requirements;
- (4) Fire tool requirements.



SECTION 9. NONWAIVER OF RIGHTS

9.01 Nonwaiver of Rights. The failure of the State to insist upon strict performance of any of the covenants and agreements of this lease, or exercise of any option conferred, shall not be construed as a waiver or relinquishment of any such covenant, agreement, or option, but the same shall remain in full force and effect.

SECTION 10. ASSIGNMENTS AND SUBLETTING

10.01 Assignments and Subletting. No assignment of this lease or subletting or subleasing of the premises shall be permitted without the written consent of the State.

10.02 Covenant Binding. The covenants, conditions, and terms of this lease shall be binding upon the respective parties and their successors in interest.

SECTION 11. NOTICES

11.01 Notices. Any notice under the terms of this lease shall be in writing, signed by a duly authorized representative of the party giving such notice, and if given by the Lessee shall be addressed to the State at P. O. Box 169, Olympia, Washington 98501, and if given by the State shall be addressed to the King County Commissioner, Seattle, Washington.

SECTION 12. SPECIAL CONDITIONS

12.01 Termination. This lease may be terminated by mutual consent of both parties with out penalty provided rental already paid may not be refunded.

IN WITNESS WHEREOF, the parties hereto have set their hands, in duplicate, the day and year first above written.

ATTEST:

EDBERT A. MORRIS,  
Notary Public

Ralph A. Stender  
Deputy

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

By Bert L. Cole  
BERT L. COLE  
Commissioner of Public Lands

KING COUNTY

By [Signature]  
Title

Seattle, Washington  
Address

18 /  
ml. [Signature]  
3/82

**EXHIBIT H**

# CAFER

## COMPREHENSIVE ANNUAL FINANCIAL REPORT

KING COUNTY  
WASHINGTON

TIM HILL  
KING COUNTY EXECUTIVE  
JOHN AMOS  
CHIEF FINANCIAL OFFICER

NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 1992

NOTE 17 - CONTINUED

Solid Waste Contribution Activity

State Department of Ecology grants, in the amount of \$182,296, are for solid waste projects including \$156,457 for the Coordinated Prevention Grant.

Cedar Hills Landfill property donated to Solid Waste Division by the State Department of Natural Resources had a fair market value of \$3,457,400.

Land in the amount of \$770,000 was transferred back to the General Fixed Asset Account Group (GFAAG). In prior years, it was initially acquired by the General Fund and accounted for in the GFAAG and then contributed to the Solid Waste Enterprise.

Land donated to Solid Waste Division in 1992 from the GFAAG had a fair market value of \$207,800.

King County International Airport Contribution Activity

Federal Aviation Administration (FAA) grants in the amount of \$307,376 are for Airport improvements including \$269,570 for land acquisition.

Solid Waste Contingent Liability

The Solid Waste Enterprise has a contingent liability for environmental remediation at four solid waste closed and abandoned landfill sites, which the Solid Waste Division owns or for which it has custodial responsibility. Two site inspections were partially completed in 1992 and will continue in the coming year. The costs of remediation expenses and liabilities, which are recorded on a site basis as inspections are completed, could be several million dollars.

**EXHIBIT I**



**King County**

Department of  
Natural Resources and Parks  
Director's Office  
King Street Center  
201 South Jackson Street, Suite 700  
Seattle, WA 98104-3855

February 13, 2003

The Honorable (Name)  
Mayor/City Manager, City of  
Address  
City, WA Zip

Dear Mayor (Name):

The purpose of this letter is to let you know about changes that will be taking place in the Solid Waste Division of the King County Department of Natural Resources and Parks beginning this year. As you know, King County is in the midst of an unprecedented budget crisis! After cutting \$40 million and \$52 million in general fund (CX) programs in the 2002 and 2003 budgets, the County still anticipates CX shortfalls in the range of \$24 million in years 2004 and 2005. The CX shortfall has forced budget cuts throughout County government and has led to a thorough review of all County operations. King County Executive Ron Sims has ordered all County departments to change the way they operate, to become more efficient, more productive, and more entrepreneurial. This mandate has led the Solid Waste Division to begin work on a new business plan while carrying out the policies of the recently adopted 2001 King County Comprehensive Solid Waste Management Plan.

For many years now, private waste management companies have been proposing plans to privatize much of the County's waste disposal system and thereby eliminate King County's landfill as competition for their landfills. Nationally, the last several years have seen significant consolidation of, and reduction of competition in, the private solid waste industry. This same consolidation has occurred in Washington State. In King County, there are only two major waste handling companies left. Based on a review of what has occurred elsewhere in the Country, we believe it is in the best interest of the public and our ratepayers to maintain a public sector presence in the solid waste marketplace in this region to guard against unreasonable rate increases that might occur under loss of competition resulting from complete privatization. We also believe the Solid Waste Division will do a better job of protecting the environment than the private sector, again based on experience with privatized utilities throughout the nation.

However, in order for the Solid Waste Division to continue as a competitive, cost effective public agency, it must do two things: 1) finalize and implement a new long-term business plan; and 2) significantly change the way it conducts its daily business.

Within the next decade, the Cedar Hills Landfill – owned by King County – will close, and a new disposal site for solid waste from King County must be identified. Cedar Hills Landfill has about ten years of useful life left. Private waste management companies have suggested early closure of the landfill and early waste export – either one of these actions would result in reducing or throwing away tens of millions of dollars of public value in Cedar Hills. We believe the public will be better served if we reject early closure and focus on stimulating greater competition for disposal services in the long-term. At this point, it appears the best scenario to accomplish this goal is to develop a public intermodal facility that will allow us to transfer solid waste from trucks to another form of transportation (most likely rail) for transport to remote landfills - landfills that we can competitively select. Developing a publicly owned intermodal facility will provide our area with additional price competitive options not currently available. Another, less likely, option would be for the County to invest in a remote landfill outside of King County. We believe successful development of these alternatives will allow the County to continue to handle the solid waste generated in your city for a reasonable and locally set disposal fee.

While the Solid Waste Division is looking to the future, it is also focusing on the present to find ways to improve productivity and do business better. You will see visible changes because the status quo simply is not an option. Solid Waste Division management is working with employees now to flesh-out the best efficiency and productivity proposals and get them implemented quickly. It is already clear that there will be job cuts and layoffs as part of this business plan.

Because the Cedar Hills Landfill property is owned by King County and not the Solid Waste Enterprise Fund, the Solid Waste Division also will begin to pay rent to the County's Current Expense Fund for the use of the landfill beginning in 2004. This rent will start at \$7 million annually, with an annual escalator for the next eight years. This rent payment will *not* be made up through a rate increase to residential and commercial waste generators nor will grants to cities be cut. Rather, it will be secured primarily through cost reductions in Division operations, and to a lesser extent through restructuring rates charged to private haulers using the landfill.

We greatly value the relationship that the Solid Waste Division has with the cities in King County. We have worked hard to build this relationship, which I believe it is a mutually beneficial one – the solid waste generated in cities is handled by King County for a reasonable and locally set disposal fee; the County relies on this waste stream to plan and budget for solid waste services accordingly.

The Solid Waste Division will be working hard over the next several months to finalize this business plan and change the way it conducts daily operations. During this time, we want to ensure that you are apprised of decisions that are made, changes that are implemented and that you have the opportunity to weigh in. To that end, we would like to convene the Cities' Solid Waste Policy Work Group. The idea for the Work Group was proposed by the cities during development of the 2001 King County Comprehensive Solid Waste Management Plan. The intent of the Work Group is to provide the opportunity for the cities and the Solid Waste

Name  
February 13, 2003  
Page 3

Division to collaborate on the development of regional solid waste policies and rate structures.

With the King County Executive's decision to maintain and strengthen King County's regional solid waste system as a public utility it is a good time to convene the Work Group. I am hoping that the cities' Public Works Directors will function as the Work Group and I have sent a letter inviting them to its first meeting.

In addition, we have scheduled an informational meeting for cities to provide an opportunity to learn more about the proposals described in this letter, with a particular focus on the larger competitive issues in the solid waste industry. That meeting will be held at Mercer Island City Hall Council Chambers, on February 19, from 11:45 to 1:00.

We are embarking on an exciting project to reshape the future of an important public agency for the next generation. Executive Sims and I are both optimistic that we will succeed in creating a more efficient and productive agency that will continue to deliver high-quality disposal and recycling services at a reasonable cost. If you have any questions, please feel free to contact me at (206) 296-6500, or Rod Hansen, Manager of the Solid Waste Division, at (206) 296-4385.

Thank you.

Sincerely,

*(original signed)*

Pam Bissonnette  
Director

cc: City Councilmembers  
City Managers  
City Recycling Coordinators



**EXHIBIT J**



King County  
Finance and Business  
Operations Division

# GAFFER

*Comprehensive  
Annual  
Financial  
Report*

JANUARY 1 THRU DECEMBER 31, 2003  
KING COUNTY, WASHINGTON



King County

June 30, 2003

**Honorable County Executive, Members of the  
Metropolitan King County Council, and King  
County Residents**

We are pleased to transmit to you the Comprehensive Annual Financial Report (CAFR) of King County, Washington, for the fiscal year ended December 31, 2002. This is the first year for several new reporting standards that have significantly impacted report presentation. The standards implement a new reporting model to provide a clear picture of the County as a single, unified entity, as well as continuing to provide traditional fund-based financial statements. Each perspective (government-wide and major fund) allows the reader to address relevant questions, provides a basis for comparison (year to year or government to government), and enhances the County's accountability.

The report is presented in three sections: Introductory, Financial, and Statistical. The Introductory Section includes this transmittal letter. The Financial Section begins with the independent auditor's report and contains management's discussion and analysis (MD&A), government-wide financial statements, fund financial statements, notes to the financial statements, required supplementary information, combining financial statements, and schedules. This letter of transmittal is designed to complement the MD&A, which presents a narrative introduction, overview, and analysis of the financial statements. The Statistical Section includes selected financial, economic, and demographic data.

The CAFR consists of management's representations concerning the finances of the County. Consequently, management assumes full responsibility for the completeness and reliability of all information presented in this report. To provide a reasonable basis for making these representations, management has established a comprehensive internal control framework that is designed both to protect the government's assets from loss, theft, or misuse and to compile sufficient reliable information for the preparation of the County's financial statements in conformity with Generally Accepted Accounting Principles (GAAP). Because the cost of internal controls should not outweigh their benefits, the County's comprehensive framework of internal controls has been designed to provide reasonable rather than absolute assurance that the financial statements will be free from material misstatement. As management, we assert that, to the best of our knowledge and belief, this financial report is complete and reliable in all material respects.

**NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2002**

**NOTE 6 – CONTINUED**

**Adjustments**

The adjustments column in the preceding schedule is explained below:

<i>Governmental Activities</i>	
2002 beginning balance in road network infrastructure	\$ 501,569,224
2002 beginning balance in construction-in-progress related to infrastructure	9,826,280
2002 beginning balance in right-of-way	123,062,271
Capitalize prior year costs as construction-in-progress	7,709,717
2002 beginning balance in accumulated depreciation on governmental capital assets	(192,064,285)
Correction to reflect Cedar Hills landfill site as governmental capital asset	3,457,400
Reclass 2002 beginning balance of governmental internal service funds net capital assets	31,472,638
<b>TOTAL</b>	<b><u>\$ 485,033,245</u></b>
<i>Business-type Activities</i>	
Correction to remove Cedar Hills landfill site from Solid Waste enterprise	\$ (3,457,400)
Reclass 2002 beginning balance of governmental internal service funds net capital assets	(31,472,638)
<b>TOTAL</b>	<b><u>\$ (34,930,038)</u></b>

**Depreciation Expense**

Depreciation expense was charged to functions of the primary government as follows:

<i>Governmental activities</i>	
General government services	\$ 11,142,273
Law, safety & justice	13,184,160
Physical environment	415,486
Transportation	1,875,697
Economic environment	748,795
Mental & physical health	2,547,871
Culture & recreation	2,634,911
Capital assets held by the County's governmental internal service funds are charged to governmental activities based on their usage of the assets	7,652,711
<b>Total depreciation expense – governmental activities</b>	<b><u>\$ 40,201,904</u></b>
<i>Business-type activities</i>	
Water	\$ 88,381,506
Transit	69,691,940
Solid Waste	9,999,106
Airport	1,048,934
Radio Communications	1,554,696
Institutional Network	325,318
Capital assets held by the County's business-type internal service funds are charged to business-type activities based on their usage of the assets	360,386
<b>Total depreciation expense – business-type activities</b>	<b><u>\$ 171,361,886</u></b>

NOTES TO FINANCIAL STATEMENTS  
DECEMBER 31, 2002

NOTE 14 – CONTINUED

<u>Capital Projects Fund</u>	Fund Balance <u>12/31/01</u>	Prior Period <u>Adjustment</u>	Fund Balance <u>01/01/02</u>
Arts and Historic Preservation	\$ 1,785,012	\$ 61,936	\$ 1,846,948
Arts Construction	1,266,773	20,082	1,286,855
Building Construction and Improvement	(9,838,506)	283,315	(9,555,191)
Building Repair and Replacement	2,773,442	497,373	3,270,815
Cable Communications	1,973,133	289,154	2,262,287
Capital Acquisition & County Facilities Renovation	1,342,541	111,105	1,453,646
Farmland and Open Space Acquisition	2,473,563	5,933	2,479,496
Major Maintenance Reserve	13,689,668	614	13,690,282
Parks CIP	1,292,527	10,490	1,303,017
Parks, Recreation, and Open Space	(697,658)	58,893	(638,765)
Public Art	3,061,039	2,165	3,063,204
Renton Maintenance Facility	3,325,782	350	3,326,132
Surface Water Management Construction	11,259,696	191,437	11,451,133
Technology 1997 Bonds	2,255,756	1,163,509	3,419,265
Technology Systems Capital	2,953,307	112,120	3,065,427
Working Forest	592,309	1,887	594,196
Other Capital Projects Funds	81,637,125	-	81,637,125
Total	<u>\$ 121,145,509</u>	<u>\$ 2,810,363</u>	<u>\$ 123,955,872</u>

Nonmajor Enterprise Funds

King County acquired the land on which the Cedar Hills Regional Landfill is located from the State of Washington in 1992. The land was incorrectly recorded as an asset of the Solid Waste Enterprise Fund. The land should have been recorded as a general fixed asset of the County. The 2002 Land balance has been corrected, resulting in the following restatement of beginning Net Assets:

	<u>Nonmajor Enterprise Funds</u>	<u>Solid Waste</u>
Net Assets - December 31, 2001	\$175,783,344	\$ 89,470,064
1992 Capitalization of Land	<u>(3,457,400)</u>	<u>(3,457,400)</u>
Net Assets - January 1, 2002 (Restated)	<u>\$172,325,944</u>	<u>\$ 86,012,664</u>

NONMAJOR ENTERPRISE FUNDS  
DECEMBER 31, 2002

Enterprise Funds are established to account for organizations which are intended to be self-supporting through fees charged for services to the public.

King County has six nonmajor enterprises that are accounted for using the accrual basis. A typical enterprise consists of an operating and construction sub-fund and may also include debt service or other reserve sub-funds.

Institutional Network (I-Net) Enterprise Fund (#00000453-0) - Accounts for the development and operations of the fiber-optic-based network which provides broadband internet connectivity to agencies across the county.

King County International Airport Enterprise Fund (#00000429-0 and 338-0) - Accounts for the operations, maintenance, capital improvements, and expansion of King County International Airport/Boeing Field. Its major revenues consist of property leases, airport user fees, fuel flowage fees, service charges, concessions, and short-term rental agreements.

The Radio Communications Services Enterprise Fund (#00000450-1, 347-2 and 347-3) - Accounts for the operation, maintenance, capital improvements, and expansion of the 800 MHz Trunked Radio System and other radio services. Initial funding of the infrastructure was through a property tax levy. Costs are recovered primarily through user fees, including charges for maintenance and future equipment replacement.

The Sewer Utility Enterprise Fund (#00000890-0 and 4801-0) - Collects assessments and pays principal and interest on sewer revenue bonds issued to pay the costs of sewerage general plan service area construction for the King County Utility Local Improvement District and the King County Sewer and Drainage District 4.

The Solid Waste Enterprise Fund (#00000404-0, 390-0, 381-0, 391-0, 383-0, and 104-0) - Accounts for the operations, maintenance, capital improvements, and expansion of the County's solid waste disposal facilities under the King County Solid Waste Division. The County operates seven solid waste transfer stations, two solid waste drop box stations, and two sanitary landfills. Operating revenues come primarily from tipping fees at the County's eleven active solid waste disposal sites. Bond proceeds fund most construction. Significant reserves are set aside to replace landfills, to provide for post-closure care and remediation costs, and to replace equipment.

The Stadium Enterprise Fund (#00000448-0 and 394-0) - The Kingdome was demolished March 2000. In June 1997 voters approved Referendum 48, providing for public/private funding sources for the construction of a new football/soccer stadium, exhibition hall, and parking structure.

**EXHIBIT K**





# CAFR

*Comprehensive  
Annual  
Financial  
Report*

OFFICE OF THE COMPTROLLER OF PUBLIC ACCOUNTS  
KANSAS CITY, MISSOURI



KING COUNTY, WASHINGTON

ENTERPRISE FUNDS  
COMBINING BALANCE SHEET  
DECEMBER 31, 2001  
(PAGE 1 OF 4)

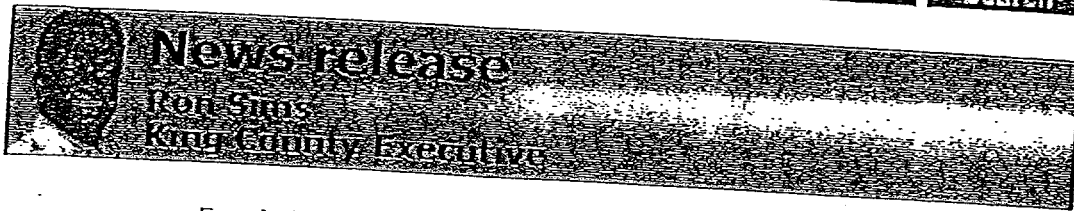
	TOTAL	I-NET	KING COUNTY INTERNATIONAL AIRPORT	PUBLIC TRANSPORTATION
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and cash equivalents	\$ 96,418,106	\$ 125,216	\$ 7,213,018	\$ 63,339,476
Accounts receivable	35,049,889	-	342,050	15,789,640
Estimated uncollectible accounts receivable	(258,286)	-	(39,345)	-
Notes/contracts receivable	1,682,741	-	1,462,881	-
Due from other funds	1,396,880	63,570	60	-
Due from other governments	38,184,906	-	60,206	37,720,030
Inventory of supplies	17,379,891	-	82,144	12,551,306
<b>Total current assets</b>	<u>189,854,127</u>	<u>188,786</u>	<u>9,121,014</u>	<u>129,400,452</u>
<b>Restricted assets</b>				
<b>Operations</b>				
Cash and cash equivalents	51,455,174	-	-	-
Interest Receivable	549	-	-	-
<b>Construction</b>				
Cash and cash equivalents	447,723,651	-	25,953,032	237,558,748
Accounts receivable	4,367,029	-	-	-
Interest receivable	4,177	-	-	-
Due from other funds	8,101	-	-	-
Other restricted assets - construction	30,136,079	-	3,307,567	26,828,365
<b>Bond</b>				
Cash and cash equivalents	98,954,573	-	-	7,434,839
Investments	66,448,577	-	-	31,432,301
Due from other funds	1,606,794	-	-	1,606,794
Other restricted assets - bond	144,293	-	-	-
<b>Total restricted assets</b>	<u>700,848,997</u>	<u>-0-</u>	<u>29,260,599</u>	<u>304,861,047</u>
<b>Fixed assets</b>				
Land	184,697,558	-	14,960,463	118,690,379
Buildings	679,536,526	-	19,391,971	235,783,737
Improvements other than buildings	1,326,737,749	-	16,782,126	489,761,401
Furniture, machinery and equipment	1,569,013,128	1,126,351	2,812,817	669,937,433
Accumulated depreciation	(1,484,109,236)	(80,454)	(24,630,868)	(683,327,253)
Work in progress	343,355,594	-	11,213,328	92,827,002
<b>Total fixed assets</b>	<u>2,619,231,319</u>	<u>1,045,897</u>	<u>40,529,837</u>	<u>923,672,699</u>
<b>Noncurrent assets</b>				
Advances to other funds	906,343	-	-	906,343
Deferred charges - environmental remediation costs	7,797,189	-	-	-
Deferred charges - other	5,500,720	-	-	594,232
Prepaid rent	1,912,500	-	-	1,912,500
<b>Total noncurrent assets</b>	<u>16,116,752</u>	<u>-0-</u>	<u>-0-</u>	<u>3,413,075</u>
<b>TOTAL ASSETS</b>	<u>\$ 3,526,051,195</u>	<u>\$ 1,234,683</u>	<u>\$ 78,911,450</u>	<u>\$ 1,361,347,273</u>

KING COUNTY, WASHINGTON

ENTERPRISE FUNDS  
COMBINING BALANCE SHEET  
DECEMBER 31, 2001  
(PAGE 2 OF 4)

RADIO COMMUNICATIONS	SEWER UTILITY	SOLID WASTE	STADIUM	WATER QUALITY
\$ 636,290	\$ -	\$ 13,629,337	\$ 1,086,975	\$ 10,387,794
131,170	-	6,274,421	80,637	12,431,971
-	-	(138,304)	(80,637)	-
219,860	-	-	-	-
135,283	-	1,197,967	-	-
1,525	-	386,325	-	16,820
88,116	-	492,311	-	4,166,014
<u>1,212,244</u>	<u>-0-</u>	<u>21,842,057</u>	<u>1,086,975</u>	<u>27,002,599</u>
-	-	34,132,331	-	17,322,843
-	-	-	-	549
1,065,220	-	85,485,737	-	97,660,914
26,845	-	224	-	4,339,960
-	-	-	-	4,177
8,101	-	147	-	-
-	186,674	-	-	-
-	-	-	-	91,333,060
-	-	-	-	35,016,276
-	-	-	-	-
<u>1,100,166</u>	<u>186,674</u>	<u>119,618,439</u>	<u>-0-</u>	<u>144,293</u>
-	-	-	-	<u>245,822,072</u>
-	-	15,715,804	1,422,865	33,908,047
-	-	17,270,434	733,296	406,357,088
15,828,644	-	88,762,336	-	731,431,886
(7,438,532)	-	33,257,191	-	846,050,692
6,406,938	-	(73,376,475)	(733,296)	(694,522,358)
<u>14,797,050</u>	<u>-0-</u>	<u>6,712,485</u>	<u>-</u>	<u>226,195,841</u>
-	-	88,341,775	1,422,865	1,549,421,196
-	-	-	-	-
-	-	-	-	7,797,189
-	-	-	-	4,906,488
-	-	-	-	-
<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>12,703,677</u>
<u>\$ 17,109,460</u>	<u>\$ 186,674</u>	<u>\$ 229,802,271</u>	<u>\$ 2,509,840</u>	<u>\$ 1,834,949,544</u>

**EXHIBIT L**



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Oct. 13, 2003

## Sims presents innovative budget; Sustain services without tax increases

King County Executive Ron Sims today unveiled his proposed budget for 2004 featuring creative innovations that sustain vital services without a general tax increase.

"Visionary leadership means making very difficult decisions," said Sims, who urged the King County Council to join him in adopting the cost-saving measures that would fund human services, protect public safety and promote annexations of urban unincorporated areas to cities.

"This is the second largest government in the state," said Sims. "We saw the financial problems on the horizon. We worked with our employees and other partners to fund public health and safety within our means.

"This budget sets a path to greater fiscal stability. By making strategic investments, by streamlining county government, by taking advantage of smart revenue opportunities, we can put King County on the path to a more secure future," Sims said.

"We have a unique opportunity to solve the imbalance between expenditures and revenues. I urge the Council to hold fast and adopt this blueprint for the future," Sims continued.

Included in the budget are implementations of recommendations issued by the Budget Advisory Task (BAT) Force that was appointed late last year. The BAT Force recommended King County undertake several initiatives aimed at reducing expenditures over the next few years and take steps to move out of urban local service delivery consistent with King County's long-term regional land-use vision.

"In addition, we will expand our performance measurement initiative to get the most out of every dime we spend," Sims added.

Sims said these initiatives require investments today that will pay-off in the future with reduced costs, improved efficiency and increased productivity of

Highlights of the budget include:

- Charging the Solid Waste utility \$7 million per year in rent for use of the Cedar Hills Landfill. Paid through efficiencies and staff reductions, it will create a long-term dedicated funding source for human service programs like those that support victims of domestic violence and sexual assault, the homeless, at risk youth and families and community clinics providing health care for our most needy;
- Establishing a \$10 million annexation incentive reserve to encourage annexations of urban unincorporated areas to existing adjacent cities;
- Investing in long overdue technology infrastructure that will generate savings, avoid future costs, enhance productivity and improve public access to King County services. Electronic court records, jail health records and computer security protection projects are included;
- Continue to have the regional parks system create partnerships and new revenue-generating programs in ongoing entrepreneurial efforts; and
- Expand the Performance Measurement Initiative that will implement systems in the workplace that will make King County managers and employees more efficient, more effective and more accountable to get the most of every dollar spent.

For more information, the 2004 Proposed Budget can be accessed in its entirety on the King County Web site at <http://www.metrokc.gov/budget/2004/proposed/index.htm>.

For more details on the budget, tune in to King County Civic Television (CTV) tomorrow at 7 p.m. for a live call-in live with Executive Sims as he discusses the budget and its contents.

Updated: Oct. 13, 2003

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**EXHIBIT M**



Metropolitan King County Council  
Committee of the Whole

STAFF REPORT

Agenda Item: 3  
Proposed No.: 2003-0459  
Attending: Theresa Jennings, Director, Solid Waste Division, Department of Natural Resources and Parks  
Name: Peggy Dorothy  
Date: December 1, 2003

**SUBJECT:** An ordinance, known as the Solid Waste Omnibus Ordinance, to adopt changes required to institute new business practices in the King County Solid Waste system.

**BACKGROUND:**

The Solid Waste Division owns and operates the largest publicly-owned solid waste management system in the state, providing planning, transfer and disposal services to all cities in King County with the exception of Seattle and Milton. The county's system consists of eight transfer stations, two drop boxes and the only remaining operating landfill in the county (Cedar Hills landfill).

In addition, two private transfer stations located in Seattle have been designated as part of the county's system. Both the county and the private sector operate transfer trucks which transport waste from transfer stations to the Cedar Hills landfill. This system of transfer stations and the landfill constitute the regional facilities provided by the county.

The county handles mixed municipal solid waste, which is solid waste generated by residences, stores, offices, and others that is not industrial, agricultural or construction, demolition or landscaping debris. The county is also responsible for ensuring the disposal of other kinds of wastes such as large debris generated from construction, demolition or land clearing (CDL) activities and moderate risk and household hazardous wastes.

The 2004 adopted budget for the Solid Waste Division is \$86.5 million and 377.43 FTEs. It is projected that 955,000 tons of solid waste will be deposited at Cedar Hills landfill next year. Of that amount, about one-quarter will go through the two private transfer stations before being delivered directly to Cedar Hills. This waste is referred to as the "regional direct" tonnage.

The solid waste system is a utility funded by several solid waste fees. The main fees are a "basic rate" and a "regional direct fee". The basic rate, presently set at \$82.50 a ton, is the rate that individuals and commercial haulers pay at county-owned transfer stations. The regional direct fee, currently \$59.50 per ton, is charged to commercial haulers who use their own transfer

stations and bypass county transfer stations, trucking the waste they collect directly to the Cedar Hills landfill. Other solid waste fees include fees for hazardous wastes and yard debris.

Most collection services are provided by cities through contracts with commercial haulers. Although the county serves as the local government in unincorporated King County, solid waste collection services are provided by commercial haulers through franchises granted by the Washington Utilities and Transportation Commission (WUTC). Rates charged to unincorporated King County ratepayers for waste collection are governed by the WUTC.

The Committee of the Whole has reviewed solid waste issues many times this year. On January 27, 2003, the Committee was briefed on the Executive's work on a new business plan for the solid waste system. The business plan is intended address how the county will dispose of its solid waste until 2012, when the Cedar Hills landfill is projected to reach capacity and close. At the time of the briefing, executive staff indicated that the preferred method of waste export would be by rail via a new county-owned and operated intermodal facility.

Since then, the Committee of the Whole has received several other briefings on various aspects of the new business practices. Last summer, the Committee reviewed and approved the Executive's proposal to purchase 12 acres on Harbor Island, to be land-banked for the potential future use as a county-owned and operated intermodal facility.

More recently, executive staff briefed the Committee on the contents of Proposed Ordinance 2003-0459, the Solid Waste Omnibus Ordinance. On October 20<sup>th</sup>, the Executive made a presentation on the Solid Waste Omnibus Ordinance and provided the Committee with a PowerPoint presentation outlining the components of both this proposed ordinance and the Executive's 2004 Business Plan. On November 10<sup>th</sup>, commercial haulers were provided an opportunity to explain to the Committee of the Whole the potential impact on them of an increase in the regional direct fee.

The Solid Waste Omnibus Ordinance would make Code changes necessary to implement the new business practices and efficiencies in the solid waste system. The purposes of today's briefing are to provide the Committee with a greater level of detail on the proposed changes and to raise issues for the Committee's consideration.

#### **SUMMARY OF SOLID WASTE OMNIBUS ORDINANCE:**

The Solid Waste Omnibus Ordinance contains provisions to implement flexible capital improvement budgeting for the solid waste CIP, establish core hours of operation at county transfer stations and grant the authority to set hours of operation beyond the core hours, increase the regional direct fee and adopt other changes in the way the Solid Waste Division does its business. The proposed changes to transfer station hours would support efficiencies assumed in the 2004 adopted budget for the Solid Waste Division.

#### **Flexible Capital Improvement Program Budgeting**

The Solid Waste Omnibus Ordinance would enable the Solid Waste Division to use "flexible budgeting" for its capital improvement program. Flexible budgeting means that the Solid Waste CIP would be appropriated on the fund level. It would allow the Division to temporarily



The Executive's rationale for eliminating Council authority for setting hours at the landfill is that the landfill is closed to the public. The Division would be able to meet the needs of commercial haulers and the county's waste management system more quickly and because the landfill is not open to the public, adjustments in hours of operation would not impact the public and the Council would not need to oversee the changes quite so closely. In setting hours for the Cedar Hills landfill, the Division Director would still need to consider stakeholder input and the goals of reducing average system-wide transfer costs and maintaining high levels of customer satisfaction and environmental stewardship.

**Issues**

The main issue with this proposal is the shift of authority from the Council to the Director of the Department of Natural Resources and Parks. During budget deliberations for the 2004 budget, as a result of discussions with Division employees brought about in response to their testimony at the Council's budget public hearings, the Executive decided to withdraw his proposal to reduce operations at Cedar Hills landfill on Sundays. There may be other situations in which the Council may want to retain its authority to set hours of operation at the landfill.

**Proposal to Increase Regional Direct Fee from \$59.50 to \$69.50**

If adopted, the Solid Waste Omnibus Ordinance would raise the regional direct fee from \$59.50 to \$69.50 per ton next year. The Executive is not proposing any change to the basic rate of \$82.50 per ton. The regional direct fee is lower because it reflects the costs the county is avoiding at the transfer stations. The differential (margin) between the basic rate and the regional direct fee has been \$23 per ton since 1992.

**Fee History**

There has not been an increase in either the basic rate or the regional direct fee since 1999. The last proposal for rate and fee changes, along with a rate study, was submitted to the Council in 1996. In that proposal, the Executive recommended phased increases for both the basic rate and the regional direct fee – one increase for a two-year period from 1997 through 1998, and a further increase for the two-year period from 1999 through 2000.

The Council took action on the Executive's proposal in 1997, approving the phased increases for the basic rate and reducing the phased increases for the regional direct fee, as shown in the table below.

**Table 2  
Fee History**

Rate/Fee*	Fees 1992-1996	Exec Proposed 1997-1998	Council Adopted 1997-1998	Exec Proposed 1999-2000	Council Adopted 1999-2000
Basic	\$66.00	\$74.25	\$74.25	\$82.50	\$82.50
Regional Direct	\$43.00	\$53.25	\$51.25	\$63.50	\$59.50
Differential	\$23.00	\$21.00	\$23.00	\$19.00	\$23.00

\*Rates/Fees shown are per ton.

Both the basic rate and the regional direct fee have remained at the 1999/2000 level for the last three years. In order to avoid increases, the Division has made cuts and implemented efficiencies that allowed the county to maintain the basic rate at \$82.50 and the regional direct fee at \$59.50.

Current Fee Proposal

The Executive proposes increasing the regional direct fee from \$59.50 per ton to \$69.50 per ton, an increase of \$10 or 16.8% per ton. The proposed fee increase would result in an additional net \$1.6 million per year to the solid waste fund.

The Executive states that the proposed increase will achieve recovery of 100% of the county's fixed costs for the solid waste system, less the costs the county avoids when commercial haulers bypass the county's transfer stations and go directly to the landfill. The Executive's calculations are shown below.

Current Basic Rate	\$82.50
Avoided Costs	(\$13.00)
Proposed Reg. Direct Fee	\$69.50

The Executive's calculation of the avoided costs (or the differential) is \$13, not \$23. The Executive's position is that: (1) the commercial haulers have been paying \$10 less than it costs the county to handle the regional direct tonnage; (2) the loss in revenue has been a drain on the solid waste fund; (3) the proposed fee increase of \$10 per ton will eliminate this drain and will support a two-year delay in the next planned rate increase from 2005 to 2007 and (4) without full cost recovery for disposal of regional direct waste, the users of transfer stations must pay higher rates to cover this shortfall in revenue.

To calculate the \$13 avoided cost figure, the Division used detailed information about the costs of transfer station labor, equipment, capital, and transport associated with handling additional tonnage, as shown below:

Table 4  
Transfer System Marginal Costs (per ton), 2004

<u>Transportation</u>	
- Truck driver labor*	\$4.25
- Equipment repair, maintenance and replacement; fuel	3.15
<b>Subtotal</b>	<b>\$7.40</b>
<u>Transfer Stations</u>	
- Transfer station operator labor*	2.30
- Equipment repair, maintenance and replacement; fuel	1.65
<b>Subtotal</b>	<b>\$3.95</b>
Other costs	0.40
<b>Total Operating Costs</b>	<b>\$11.75</b>
Marginal Capital Costs	1.25
<b>Transfer System Marginal Cost</b>	<b>\$13.00</b>

## Issues

The Executive has stated that increasing the regional direct fee is required in order to keep solid waste rates steady until 2007 and still be able to meet the solid waste system's obligation to transfer funds to the CX fund. The Division has cut operations and staffing significantly and they believe that the only alternative to raising the regional direct fee is to raise all solid waste fees in 2005. The Division has indicated that the planned basic rate increase in 2005 would be from \$82.50 per ton to \$89.00 per ton.

The Division has adjusted expenditures and instituted efficiencies that have allowed the rate to stay at the \$82.50 basic rate since 1999. The adopted 2004 budget for the Solid Waste Division includes a proviso that would restrict \$75,000 in operating funds until a comprehensive rate study is completed for all solid waste rates and fees. Under this proviso, the rate study must include detailed information on assumptions and methodologies for determining rates, alternative rate options, and comparable rate and fee information from other jurisdictions. However, it should be noted that the Division was not required to conduct a rate study prior to the proposed regional direct fee increase because the basic rate of \$82.50 per ton is not changing.

On November 10, representatives from Waste Management and Allied (the commercial haulers in King County), briefed the Committee on the potential impacts of the proposed fee increases on their operations. At this briefing the commercial haulers indicated that they might react to the regional direct fee increase by sending more tonnage to county transfer stations, closing or limiting hours at their private transfer stations, changing their handling of waste from unincorporated King County, or making some other business decision that could impact the solid waste management in the King County system.

In addition, there has been concern that the regional direct fee increase would lead to an increase in collection rates the commercial haulers charge customers. The Washington Utilities and Transportation Commission was asked about the possibility of a rate increase if the regional direct fee is increased. In an e-mail from Eugene K. Eckhardt, Assistant Director of Water and Transportation, for the Washington Utilities and Transportation Commission (Attachment 6), Mr. Eckhardt stated:

"If King County increases only the \$59.50 disposal fee charged to solid waste collection companies that deliver waste to the Cedar Hill Landfill, Staff does not think that increase would flow through to regulated solid waste customers because those customers currently pay rates that include the full cost of \$82.50, the reasonable and currently available alternative. Increasing the \$59.50 disposal fee may cause a solid waste collection company to change its operation in some way that could affect rates charged to regulated customers, but Staff is not aware of any such changes at this time. Before a company could pass increased costs onto customers, the company would need to file a proposed rate increase with the Commission and demonstrate to the Commission that it needs additional revenue."

The Division has estimated that increasing the regional direct fee will increase the amount of tonnage coming into county transfer stations. The Division estimates that as a result of the fee increase, about 140,000 tons will come into county transfer stations instead of going directly to

the landfill, leaving about 50,000 of regional direct tonnage annually. Based on historic patterns of transfer station usage and transfer station capacity, the Division estimates that most of the 140,000 in additional tonnage will come into the Factoria, Bow Lake and Renton transfer stations. In his 2004 proposed budget, the Executive estimated that if estimates are correct, the Division would require appropriation authority for up to 14 FTEs for the second half of 2004 with associated costs of about \$810,847.

The Solid Waste Omnibus Ordinance includes notice provisions for the regional direct fee increase. The Solid Waste Omnibus Ordinance also includes a provision clarifying the provisions in County Code for the system of disposal. Staff continue to review these provisions for clarity and consistency with state and local law.

#### **Waste Reduction and Recycling Grant Program for Cities**

The 2004 adopted budget includes \$1 million in funding for a grant program to support cities' waste reduction and recycling programs. This grant program has been periodically authorized by Council motion on a temporary basis to support city grants. Current authority for the program expires on December 31, 2003.

The Executive proposes to continue this program on an ongoing basis for cities participating in the county's regional solid waste system. Grant funds would be available to all cities operating under the Comprehensive Solid Waste Management Plan.

Funding for the program would be approved through the annual budget process and will be consistent with current adopted King County waste reduction and recycling policy and budgets. At the time any grant funding is distributed to cities, via the interlocal agreement signature process, the King County Solid Waste Division shall assess the waste reduction and recycling program and proposed city scopes of work for compliance with current King County waste reduction and recycling policies.

The amount of the grant distributed to each applicant would be calculated according to each applicant's residential and employment population based on populations figures obtained from the Washington Office of Financial Management and the Puget Sound Regional Council.

The change proposed in the Solid Waste Omnibus Ordinance would continue the program, while eliminating the need for additional council motions and retaining the council's control over annual funding for the program.

#### **Billing, Collection and Fee Setting**

The Solid Waste Omnibus Ordinance would make primarily technical changes to the sections on billing and collection to clarify the requirements the division must follow when customers will be billed for disposal services. Substantive changes would include the following:

- The time to pay invoices before they become delinquent would be reduced from 25 to 20 days.
- The Solid Waste Division would be allowed to provide payment instructions for invoices, including specifying the form of payment (e.g., electronic)

**EXHIBIT N**

KING COUNTY SOLID WASTE ADVISORY COMMITTEE  
November 21, 2003  
Unapproved DRAFT Meeting Minutes

Members in Attendance

William Beck  
Robert Beckwith  
Don Freas  
Jerry Hardebeck  
Mark Hooper  
Max Pope  
Ray Schlien  
Shirley Shimada  
Dave Whitley

Others in Attendance

Theresa Jennings  
Kevin Kiernan  
Kathryn Killinger  
Diane Yates

Members Absent

Carolyn Armanini  
Steve Goldstein  
Jerry Hardebeck  
Jim Hodge  
George Raffle  
Judy Stenberg  
Joe Tessier

Action Items

Lines 8-9: Approval of October 17<sup>th</sup> meeting minutes.  
Lines 11-13: Table approval of October 24<sup>th</sup> Ad Hoc Subcommittee minutes until January meeting.  
Lines 33-35: Approve Waste Wise letter to Executive with revision.  
Lines 38-39: Table discussion of conflict of interest procedures until January meeting.  
Line 173: Add Northeast King County Service Area to January meeting agenda.

1 Call to Order

2 Vice Chair Hooper called the meeting to order at 9:40 a.m.

3

4 Introductions

5 SWAC members and others in attendance introduced themselves.

6

7 Approve Minutes and Review Agenda

8 SWAC member Shirley Shimada moved approval of the October 17<sup>th</sup> minutes.

9 The motion passed unanimously.

10

11 SWAC member Bill Beck moved to table review and approval of the October 24<sup>th</sup> Ad Hoc  
12 Subcommittee meeting minutes until the January 2004 meeting. The motion passed  
13 unanimously.

14

15 Subcommittee Reports

16 **WRR Subcommittee**

17 Shimada discussed the film "Blue Vinyl" that the WRR subcommittee viewed at its October  
18 meeting. She talked about the health impacts of the material and said it is not biodegradable.  
19 Shimada said the film is informative and entertaining and encouraged everyone to see it.  
20

21 Vice Chair Hooper said that the Environmental Protection Agency (EPA) developed pollution  
22 standards in the 1970s and 1980s and categorized vinyl chloride as an extreme carcinogen.  
23

24 **Facilities and Operations Subcommittee**

25 SWAC member Bob Beckwith discussed transfer station upgrades and said the Renton Transfer  
26 Station was ready to reopen. He discussed proposed operational efficiencies at Cedar Hills  
27 including the new transportation plan.  
28

29 Review Waste Wise letter to Executive

30 SWAC reviewed the draft letter commending the Executive for his support of the Waste Wise  
31 and other environmental programs.  
32

33 Shimada moved to approve the letter with the addition of the phrase, "making King  
34 County a national leader in waste reduction" at the end of the first sentence. The motion  
35 passed unanimously.  
36

37 Conflict of Interest Procedures

38 Shimada moved to defer the discussion of conflict of interest procedures until the January  
39 meeting. The motion passed unanimously.  
40

41 SWD Changes Update

42 Theresa Jennings, Solid Waste Division Director, gave an update on proposed SWD changes.  
43 She said the budget was scheduled to be voted on at the Council meeting on Monday, November  
44 24<sup>th</sup>. SWD is working with Councilmember Patterson's office to determine which issues should  
45 go before the Regional Policy Committee. She said the cities' concerns with SWD Changes are

46 broader than just solid waste and include the outcome of past regional issues such as parks,  
47 pools, courts and jails.

48

49 Jennings discussed recent newspaper articles and the haulers' presentations to the King County  
50 Council Committee of the Whole (COW) on the Regional Direct Rate. She said that while the  
51 biggest issue in SWD's budget seems to be the proposed elimination of the Regional Direct Rate  
52 spread, the proposal to grant the Executive the authority to change transfer station hours of  
53 operation is also controversial. The Council may approve the changes in hours as the Division  
54 proposed but not give authority for future changes to the Executive.

55

56 The one outstanding issue with labor is over the Transportation Plan, which would affect truck  
57 drivers' hours of work. Nine unions and 14 bargaining units represent SWD employees and all  
58 but one is supportive of the Business Plan and proposed efficiencies. Four all-hands meetings  
59 are scheduled in January to go over the budget and the future of the Division with employees.

60

61 Jennings said that the framework for the Waste Export Plan is in the Executive's office and is  
62 not yet available for public review.

63

#### 64 Layoff Update

65 Jennings told the Committee that 16 of the 35 staff who received lay off notices remain to be  
66 placed. Three of those employees have interviews scheduled. The majority of the staff who have  
67 not yet been placed are truck drivers and transfer station operators.

68

#### 69 Northeast King County Service Area

70 SWAC member Ray Schlien distributed copies of a handout he prepared for the October 24<sup>th</sup>  
71 Ad Hoc Subcommittee meeting and included Engineering Services Manager, Kevin Kiernan's  
72 handouts from the Ad Hoc meeting.

73

74 Schlien discussed the handout, which included text from the King County Code, the 1992 and  
75 2001 Comprehensive Solid Waste Management Plans, adopted 1995 Ordinance No. 11949 and  
76 the current SWD Business Plan. He said that the Houghton Transfer Station is overcapacity and  
77 a new facility is needed. He wondered if SWAC could suggest that an ordinance amending  
78 Ordinance 11949 be introduced to Council calling for a new transfer station in northeast King  
79 County.

80



81 SWAC member Don ~~James~~ asked about the amount of the region's solid waste that goes to  
82 Houghton. SchlienZ said that 25 percent of the county's solid waste goes through the Houghton  
83 Transfer Station.

84

85 In response to questions about the growth in solid waste and plans for Factoria, Kiernan said  
86 tonnage at Houghton is down 7 percent from its peak in 1998 and that the Division does hope to  
87 expand the Factoria Transfer Station.

88

89 Jennings said that the cities are interested in the Northeast King County Service Area strategy  
90 and will be discussing the issue at the Regional Policy Committee (RPC). Budget provisos will  
91 also address this issue.

92

93 Vice Chair Mark Hooper asked if adding a new transfer station is an option.

94

95 Jennings said that a new transfer station is an alternative. It is a policy decision that the  
96 Executive and Council will have to make. The Division proposed a new station in Woodinville  
97 years ago but that plan was rejected. SWD will be asking the cities to help decide a long range  
98 transfer station strategy.

99

100 Kiernan said the direction to the Division over the last ten years has been to control rates. The  
101 Division has had to look at nonstructural approaches such as Special Recycling Collection  
102 Events (SRE). SREs have moved one quarter of the traffic out of transfer stations.

103

104 SWAC member Dave Whitley commented that the proposed increase in the Regional Direct  
105 Rate would result in more traffic at the Division's transfer stations.

106

107 SchlienZ asked about how the Division would achieve additional efficiencies if higher volumes  
108 of waste were to come through Houghton.

109

110 Kiernan said the key efficiency planned at transfer stations is compaction – a single  
111 technological upgrade that is not planned for Houghton. Other structural changes might include  
112 moving columns in the buildings in order to move more traffic through.

113

114 Jennings said that the Division will also work with the haulers on rerouting collection trucks to  
115 other stations. However, traffic would not be rerouted to Houghton or 1<sup>st</sup> Northeast.

116 Kiernan said that the Division knows where the Regional Direct tonnage is going now; it isn't  
117 bypassing Houghton. The haulers typically bypass the Renton, Bow Lake and Algona stations to  
118 go to their own stations. If that waste were to come through the Division's facilities, it would go  
119 through those three stations.  
120

121 SchlienZ stated that a lot of the tonnage going to Houghton is coming from north and east of  
122 Lake Sammamish.  
123

124 Jennings distributed information about each transfer station, including tonnage numbers and  
125 customer breakdown.  
126

127 Jennings and Kiernan left the meeting.  
128

129 SWAC member Freas commented that SWAC can take a long range view; that short range  
130 thinking is taking precedence. SWAC should work with SWD on long range vision and where a  
131 new facility could be built.  
132

133 SWAC member Bob Beckwith said that any new facility should be accessible to rail.  
134

135 Whitley stated that material has to come from collection areas and rail is not always located  
136 nearby.  
137

138 SchlienZ wondered if a cost study could be done to analyze the traffic impacts of using Harbor  
139 Island as an intermodal site.  
140

141 Whitley suggested that other providers should be looked at as well.  
142

143 SWAC member Max Pope said that a lot of rail sections have been abandoned, including those  
144 in Woodinville, which are in bad shape.  
145

146 SchlienZ said that there is a rail spur in Woodinville but it would have to be improved.  
147

148 Whitley stated that NIMBYism is going to be a big issue and that's why Harbor Island is such a  
149 valuable site.  
150

151 Pope commented that Harbor Island is ideal until you try running 30,000 vehicles in and out.  
152

153 Shimada suggested undergrounding a facility. Members agreed that that would be too expensive  
154 and still not resolve concerns about traffic.  
155

156 Beckwith suggested using a vacated Boeing facility.  
157

158 Freas said that siting an intermodal facility is difficult and that it's good to have two railroads  
159 for competition.  
160

161 Hooper asked how SWAC would like to proceed.  
162

163 Schlienzen said that his approach would be to suggest a replacement ordinance for 11949 that  
164 would give the Division a different direction and inject more flexibility into the system. He said  
165 that siting a transfer station is a NIMBY issue; technical issues are easier to resolve and less  
166 political.  
167

168 Freas suggested Schlienzen work with Theresa Jennings or Kevin Kiernan on new ordinance  
169 language. He said it would be important to get cities on board before going to council.  
170

171 Shimada said SWAC should work together before presenting something to staff.  
172

173 **Beck moved to put discussion of this item on January agenda. The motion passed**  
174 **unanimously.**  
175

176 **Regional Direct Rate**

177 **Whitley stated that any potential revenues from the increase in the Regional Direct Rate could**  
178 **be consumed with legal bills. He said he found it troubling that there has been a lack of good**  
179 **strategy on this issue.**  
180

181 **Members expressed concern about the proposal for the Division to pay back rent.**  
182

183 **Beck said it is important to recognize that the Executive's decision is not in SWAC's purview;**  
184 **that it's a county-level policy issue. It's in SWAC's purview to look at identified savings and**

185 ask if savings should stay within customer base and be used to reduce costs for future  
186 activities.

187

188 SchlienZ stated that ratepayers on the eastside created the enterprise fund, yet by putting the rent  
189 into the general fund, the money will go to Seattle.

190

191 Pope said that if the rent is approved, this will happen in other areas and that is why the decision  
192 will be legally challenged.

193

194 Beck said that it is an indictment of management that efficiencies hadn't already been identified.  
195

196 SchlienZ said that the Rabanco discussed winning the new contract with Bellevue at the  
197 Council's COW meeting. They said they had to resort to investment in technology to beat out  
198 Waste Management. SWD should have to be more competitive to survive, but if County wants  
199 more money, it just raises rates. That's what has happened over the years with SWD and other  
200 agencies. They are not pushed to be competitive.

201

202 Pope said that people think government is a waste of money, but private industry does not have  
203 a lock on brains and ability. Government gets locked in by political decisions made upstairs.  
204

205 Shimada asked if SWAC can express concerns that legal costs may outweigh benefits of  
206 reduction in Regional Direct Rate spread.

207

208 Whitley said that the reduction in the spread is a de facto rate increase and has been sold as  
209 efficiencies and not a rate increase. He said that flow control will be a substantial issue in this  
210 region over next few years.

211

212 Freas said that SWD doesn't operate in competitive environment. You see what private haulers  
213 have to do to achieve contracts with cities by giving up some of their margins.

214

215 Beck said this gets to privatization of government services. Government activities are subject to  
216 political activities and private business isn't.

217

218 Shimada commented that it's government rules and regulations that protect solid waste  
219 customers.

220

221 Hooper responded that the private sector pays into campaign coffers.

222

223 Beck said government employees probably earn more than private sector workers and the  
224 benefits are better. Beck went on to say that there are serious legal ramifications of the direction  
225 the Division is going and that there wasn't a stakeholder process like the one the Division  
226 conducted several years ago.

227

228 Hooper asked how members wanted to address the Regional Direct Rate issue and whether it  
229 should be added to the January agenda.

230

231 Beck said that the issue may be moot if the budget is adopted on Monday.

232

233 **Adjournment**

234 Beck moved to adjourn the meeting at 11:20

235

236 Respectfully submitted,

237 Diane Yates

238 SWAC Staff Liaison

239 Strategic Planning Group

240 King County Solid Waste Division

**EXHIBIT O**

Chapter 10.12  
SOLID WASTE SITE DISPOSAL FEES

Sections:

- 10.12.021 Fees for use of disposal sites.
- 10.12.030 Collection of fees.
- 10.12.040 Unsecured load fee.
- 10.12.050 Exception to service fee.
- 10.12.055 Other fees.
- 10.12.060 Enforcement.

**10.12.021 Fees for use of disposal sites.** All persons using county-operated solid waste disposal facilities shall pay the service fees in the following schedules:

A. Service fees for the use of disposal sites with scales, excluding Cedar Hills, shall be:

1. Solid waste disposal:

Passenger cars	\$13.72 per entry
Other vehicles	\$82.50 per ton
Charitable organizations	\$63.50 per ton
Minimum	\$13.72 per vehicle
Charitable organizations, minimum charge	\$10.58 per entry

2. Deposit of source-separated yard debris at yard debris collection areas and deposit of clean wood at clean wood collection areas:

Passenger cars	\$12.75 per entry
Other vehicles	\$75.00 per ton
Minimum charge	\$12.75 per vehicle

3. Deposit of white goods at white goods collection areas:

White goods without regulated refrigerants	\$10.00 per unit
White goods with regulated refrigerants	\$24.00 per unit

B. Service fees for the use of disposal sites without scales, such as mobile yard debris facilities, shall be based upon the cubic yard or fraction thereof as follows:

1. Solid waste disposal:

Passenger cars	\$13.72 per entry
Other vehicles	
Compacted wastes	\$23.86 per cubic yard
Uncompacted wastes	\$13.72 per cubic yard
Minimum charge	\$13.72 per vehicle

2. Deposit of source-separated yard debris at yard debris collection areas:

Passenger cars	\$12.75 per entry
Other vehicles	
Compacted wastes	\$21.50 per cubic yard
Uncompacted wastes	\$12.75 per cubic yard
Minimum charge	\$12.75 per vehicle

C. Service fees at the Cedar Hills landfill shall be:

Cedar Hills Regional Direct	\$69.50 per ton
Other vehicles	\$82.50 per ton

Disposal by other vehicles is at the discretion of the solid waste manager.

D. A moderate-risk waste surcharge shall be added to all solid waste disposed by nonsolid waste collection entities using county operated disposal facilities. The fee schedule is as follows:

1. For sites with scales:

Self-haulers	\$2.61 per ton
Minimum charge	\$1.00 per entry
Passenger cars	\$1.00 per entry

2. For sites without scales:

Compacted	\$0.76 per cubic yard
Uncompacted	\$0.44 per cubic yard
Minimum charge	\$1.00 per entry
Passenger cars	\$1.00 per entry

E. A special waste fee shall be charged for special waste including infectious waste treated and handled in accordance with King County Board of Health Code 10.28.070, asbestos-containing waste material, problem wastes and other additional wastes requiring clearances in accordance with King County Board of Health Code Title 10 or rules promulgated by the department.

Special waste fee	\$132.00
Minimum charge	\$22.20

F. In the absence of exact weights or measurements, the estimate of the manager is binding upon the user.

G. Solid waste either generated or collected, or both, within the boundaries of a jurisdiction that has not entered into an agreement with King County for use of King County solid waste disposal facilities as provided by this chapter may only be disposed of in a King County facility upon payment of a special service fee of three times the applicable per ton rate for facilities with scales and three times the applicable cubic yard rate for compacted or uncompacted wastes for facilities without scales. Payment of the special service fee in this subsection shall be in lieu of payment of the fees in subsections A through E of this section. Nothing in this subsection authorizes the use of King County facilities by any municipal corporation or agent thereof or any commercial hauler for disposal of solid waste [either] or both generated and collected outside King County. (Ord. 14811 § 17, 2003; Ord. 12564 § 2, 1996).

**10.12.030 Collection of fees.**

A. Except as expressly provided otherwise in this chapter, all service fees collected under this chapter shall be collected in cash or check or by credit or debit cards by site cashiers at the time of use. Consistent with the requirements of this chapter, the manager may authorize a facility user to be billed monthly for all solid waste delivered to either the transfer stations or the final disposal sites, or both.

B. The manager is authorized to adjust any solid waste service fee for purposes of minimizing cash holding requirements at solid waste facilities. The adjustment to the calculated fee shall not exceed twenty-five cents nor shall it have a significant impact on the revenue collected in the proposed rate period.



**EXHIBIT P**



**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

711 TTY Relay

December 17, 2003

**CERTIFIED MAIL**

**Pete Keller, Vice President**  
**Regional Disposal Company**  
54 S Dawson Street  
Seattle, WA 98134

Dear Mr. Keller:

The purpose of this letter is to notify you of an increase in the Solid Waste Division's regional direct disposal fee. The regional direct fee is the cost paid by haulers to dispose of waste transported to the Cedar Hills landfill by conventional long haul transfer vehicles from solid waste transfer stations or intermediate processing facilities.

Effective April 1, 2004, the regional direct fee will increase from \$59.50 to \$69.50 per ton as directed by Ordinance 2003-0459, adopted by the Metropolitan King County Council on December 8, 2003.

Thank you for your attention to this matter. If you have any questions about this notice, please contact me at 206-296-4385.

Sincerely,

A handwritten signature in cursive script that reads "Theresa Jennings".

**Theresa Jennings**  
Director

cc: Ann Shigeta, Section Manager, Finance and Administrative Services Section

**EXHIBIT Q**



King County

Ron Sims

King County Executive

516 Third Avenue, Room 400  
Seattle, WA 98104-3271

206-296-4040 206-296-0194 Fax  
TTY Relay: 711

[www.metrokc.gov](http://www.metrokc.gov)

December 12, 2003

Nick Harbert, Manager

Rabanco

54 South Dawson

Seattle, WA 98134

Dear Mr. Harbert:

As you know, the King County Council passed the Solid Waste Omnibus Ordinance on December 8, 2003, to provide for a more efficient County Solid Waste Division.

I know that Rabanco opposed the increase in the regional direct fee from \$59.50 to \$69.50 that was part of the ordinance. However, reducing the regional direct discount was necessary to reflect King County's avoided costs. As you know, this was an issue raised in the 2001 Final Comprehensive Solid Waste Management Plan.

Rabanco currently does significant amounts of business with King County. The recyclables hauling contract, the CDL contract, and the recent contract for the disposal of dredge spoils are just a few examples of this mutually beneficial relationship.

In addition, King County will be developing a Solid Waste Export Coordination and Implementation Plan in 2004, and I want Rabanco to have significant input on the plan.

However, during the discussions on the regional direct rate, Rabanco raised the potential of challenging flow control to the County's Cedar Hills landfill. We have evaluated these issues and believe that the various mechanisms in place to ensure flow control are valid and enforceable, and King County will vigorously enforce them using all available means.

In addition, I believe that any violation of flow control would irreparably damage relations with this administration – and the County generally. Therefore, I hope that we can work cooperatively to ensure that our citizens receive reliable solid waste services at reasonable rates.

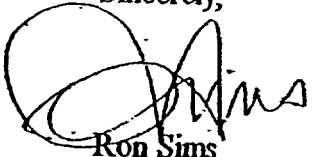


Nick Harbert  
December 12, 2003  
Page 2.

I have asked the Solid Waste Division staff to contact you to discuss regional solid waste issues, including the CDL contracts and potential changes in hours of operation at County transfer stations to better accommodate Rabanco's needs. If you have any questions or concerns in the meantime, please feel free to contact Theresa Jennings, Division Manager, Solid Waste Division, at 206-296-4385.

In addition, you are always welcome to raise issues directly with me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Sims', written over a circular scribble.

Ron Sims  
King County Executive

cc: Kurt Triplett, Chief of Staff, Office of the King County Executive  
Pam Bissonnette, Director, Department of Natural Resources and Parks (DNRP)  
Theresa Jennings, Division Manager, Solid Waste Division, DNRP

**EXHIBIT R**



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

711 TTY Relay

January 4, 2004

Pete Keller, Vice President  
Regional Disposal Company  
54 S Dawson Street  
Seattle, WA 98134

Dear Mr. Keller:

I notified you by letter on December 17, 2003, that the Solid Waste Division will be increasing the cost of regional direct disposal effective April 1, 2004. We anticipate that this increase may mean changes in your hauling patterns to King County solid waste facilities.

The purpose of this letter is to inform you of reporting requirements under King County Code 10.08.140D, which states that:

**10.08.140 Reporting.** Effective July 1, 1991, all solid waste collection entities shall provide information to the manager on their usage of King County solid waste facilities. ...

... D. Any significant changes in patterns of usage of King County solid waste facilities shall be reported to the manager 30 days in advance of the change. (Ord. 10018 § 4, 1991).

Please let me know by March 1, 2004, if you are planning any changes in your pattern of use of King County solid waste facilities. Thank you for your cooperation in this matter.

If you have any questions, please contact me at 206-296-4385.

Sincerely,

Theresa Jennings  
Division Director

- cc: Geraldine Cole, Assistant Division Director, Solid Waste Division (SWD)
- Brad Bell, Operations Manager, Operations Section, SWD
- Kevin Kiernan, Engineering Manager, Engineering Section, SWD

**EXHIBIT S**





# RABANCO

## REGIONAL DISPOSAL COMPANY

A WASHINGTON JOINT VENTURE

March 1, 2004

Theresa Jennings, Director  
 King County Solid Waste Division  
 King Street Center  
 201 S. Jackson St., Suite 701  
 Seattle, WA 98104-3855

Dear Ms. Jennings:

Rabanco is in receipt of your letter, dated February 4, 2004 regarding potential changes in our waste flows that may result from the increase in the Regional Direct Fee. It is our intention to no longer deliver any Regional Direct volume to the Cedar Hills Landfill after March 31. The April 1 increase in the fee, to \$69.50 per ton, will create a \$13 per ton spread between the \$82.50 per ton we are allowed to charge our customers and \$69.50 per ton the County will charge us. From that \$13 spread, Rabanco must pay a \$6.45 per ton Transfer Tax to the City of Seattle. It is simply not economically feasible, or possible, for us to operate our transfer station and transport waste to Cedar Hills for net operating revenue of \$6.55 per ton when direct incremental costs are more than twice that amount.

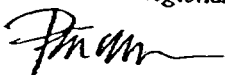
Our transfer station historically has been crucial to our collection operations by providing "after hours" service that King County transfer stations have not provided. This "after hours" service has grown in importance for customers over the past twenty years as traffic congestion and limited access issues have steadily increased. We have routes that operate throughout the night and most of the weekend, in many cases as required by contract or ordinance. Therefore, we expect King County to extend their hours accordingly. Effective April 1, 2004, King County needs to provide us with continuous twenty-four hour a day transfer station service every week from noon Sunday to 6 PM on Saturday.

Waste flows are difficult to predict by city or neighborhood as many factors affect day-to-day volumes. Consequently, we are unable to provide you with specific information about waste tonnages arriving at the County facilities at this time. Our transfer station operations, by necessity, accommodated unpredictable, day-to-day, hour-to-hour volumes that ebb and flow based on various factors such as seasonality, economic activity, special customer service requests and equipment availability. Accordingly, we expect that King County's transfer stations will be able to handle these fluctuations, as we have in the past. As you know, our total historic Regional Direct volumes have ranged from 75,000 to 150,000 tons annually.

We will provide you with more information as things evolve and as we have an opportunity to analyze the impacts that occur resultant from the County's elimination of the Regional Direct option. Your cooperation in gearing up to insure that we do not experience any service failures for our collection customers, including suburban cities and WUTC regulated customers, is very much appreciated.

Sincerely,

Rabanco Regional Disposal Company

  
 Pete Keller  
 Vice President

CORPORATE OFFICE: 54 SOUTH DAWSON STREET • SEATTLE, WASHINGTON 98134

LANDFILL SITE: 500 ROOSEVELT GRADE ROAD • P.O. BOX 338 • ROOSEVELT, WASHINGTON 99356

(206) 332-7700 • FAX (206) 332-7600

(509) 384-5611 • FAX (509) 384-5881

**EXHIBIT T**

**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

711 TTY Relay

March 3, 2004

Pete Keller, Vice President  
Rabanco Regional Disposal Company  
54 South Dawson Street  
Seattle, WA 98134

Dear Mr. Keller:

Thank you for your letter of March 1, 2004 regarding Rabanco Regional Disposal Company's plans to use King County transfer stations "after hours" beginning April 1, 2004. We are working to better understand your requests but in order to efficiently provide whatever additional service may be required, we need the information detailed below.

You stated in your letter that you would like King County to provide your company with "twenty-four hour a day transfer station service every week from noon Sunday to 6 p.m. on Saturday". However you provided no basis for this request. We received no information on the amount of tonnage you expect to bring into our system or what facility you are interested in bringing the tonnage to. We recognize there is some inherent variability in tonnage. You do, however, have significant operating experience upon which you base your own staffing and resource requirements.

In order for the County to efficiently handle any additional tonnage within our transfer system we must have your best estimate of the anticipated amount of tonnage expected to be received by facility. We want to accommodate your needs and therefore we need to know what your historical experience has been and what you expect over the next year. Please provide us with the following information about tonnage collected in King County only by March 10, 2004:

- 2003 data on the average incoming tonnage at your 3<sup>rd</sup> and Lander facility by day of the week and by two hour blocks (e.g. Monday 2:00 a.m. – 4:00 a.m.)
- Your best estimate on the amount of tonnage that you expect to come to our transfer system after hours by day of the week and by two hour blocks, along with the preferred facility you would like to process this tonnage after hours.
- Information regarding your "routes that operate throughout the night and most of the weekend" (as referred to in your letter), including time schedule and tonnages involved.

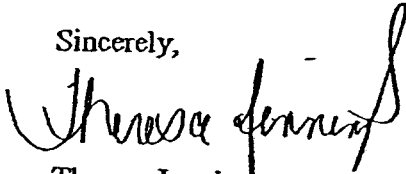
Pete Keller  
March 3, 2004  
Page 2

For your information, we have thus far planned Bow Lake as the only facility we intend to provide service "after hours" (when we are not open to the public) to certificated haulers only. Based on information currently available, we believe Bow Lake will have sufficient capacity to meet Rabanco's current needs. In addition, Factoria will continue to remain open to the public through June 1, 2004 until 11:30 p.m.

The County will work with you to accomplish an efficient use of transfer station facilities. However, consistent with applicable laws, the County will continue to require that all solid waste generated within the County, including its cities, be disposed of at County designated facilities and that no solid waste generated within the County be diverted to any out-of-County disposal sites.

If you have any further questions or concerns, please feel free to contact me, at 206-296-4385.

Sincerely,



Theresa Jennings  
Division Director

TJ:rm

cc: Nick Harbert, Manager, Rabanco Regional Disposal Company  
Richard C. Yarnuth, Attorney at Law, Yarmouth Wilsdon Calfo PLLC  
Pam Bissonnette, Director, Department of Natural Resources and Parks (DNRP)  
Kevin Kiernan, Engineering Services Manager, Engineering Services Section, Solid  
Waste Division, DNRP

**EXHIBIT U**



# RABANCO

54 South Dawson Street  
Seattle, WA 98134  
(206) 332-7700 FAX (206) 764-1234

March 16, 2004

**VIA FACSIMILE  
OVERNIGHT DELIVERY TO FOLLOW**

Theresa Jennings  
Division Director  
King County Solid Waste Division  
201 South Jackson St., Suite 701  
Seattle, WA 98104-3855

Re: Rabanco Ltd.

Dear Ms. Jennings:

Your letter of March 3, 2004 was extremely disappointing. On the one hand, King County is making it uneconomical for Rabanco to use its own transfer station and effectively forcing Rabanco to use the County's transfer stations. Yet at the same time the County is refusing to provide the hours of operations and services Rabanco's customers need and have enjoyed for years. To aggravate this situation even more, the County is now reducing its already limited hours of operation at all its transfer stations.

Rabanco's transfer station has been a part of the County's solid waste transfer station system for many years and is open for business 24 hours a day, seven days a week, except for Saturday night. The station operates as a hub for haulers, reducing volumes at the County's stations and providing critical 24-hour service to support night time or "off hour" collections from restaurants, offices and industrial companies when the County transfer stations are closed. These off-hour operations allows us to meet our customers' needs while accommodating noise constraints important to local jurisdictions.

The Seattle station also gives us the flexibility to re-route trucks to our transfer station when there is daytime traffic congestion in the area of County transfer stations – reducing the pressure on our overcrowded roads, especially during rush hour.

To address the potential for disruptions, we have asked the County to provide us with continuous 24-hour a day transfer station service every week from noon Sunday to 6:00 p.m. on Saturday to accommodate our customer's needs, including night time loads. The County has declined this request. Instead the County has proposed only its Bow Lake transfer station for our requested delivery hours. Giving Rabanco – who picks up MSW throughout the County, including far to the north, only Bow Lake in the south as the County's long-term, sole "after hours" drop point is not economical, efficient, or a good service to our clients.

Theresa Jennings  
March 16, 2004  
Page 2

In hopes of trying to develop a possible solution - we propose a compromise. As you know, Rabanco has the hauling contract for many eastside cities, including the cities of Bellevue, Mercer Island, Issaquah, North Bend, Snoqualmie, Medina and Clyde Hill. Accordingly, we will need the Factoria and Houghton transfer stations to be open on virtually a continuous basis every day, including weekends and evenings, to operate effectively and meet our customers' needs. Because Rabanco also has contracts with Kent, Des Moines, Tukwila and Algona, we will need the same hours and level of service at your Renton and Algona transfer stations, as well as Bow Lake. Finally, because we serve Lake Forest Park, we will also need some expanded hours at your First Northeast transfer station on weekdays.

In the short notice you have given us, we cannot reasonably answer all the questions raised in your March 3<sup>rd</sup> letter. We can, however, tell you average daily deliveries of affected volume at our 3<sup>rd</sup> and Lander facility is as follows:

Day of Week	Volume Delivered	Percent after Hours
Monday	570 tons	41.4%
Tuesday	690 tons	35.0%
Wednesday	590 tons	33.7%
Thursday	550 tons	33.9%
Friday	540 tons	36.3%
Saturday	100 tons	47.6%
Sunday	25 tons	N/A

As seen, collection volume is fairly consistent during weekday routes, peaking on Tuesdays. Additionally, the mix of routes, customer accounts, operational experience, and contract requirements necessitates in excess of 36% of total deliveries to occur after hours. For purposes of the above analysis, after hours is defined as 5 PM through 7 AM.

In conclusion, Rabanco will do everything possible to minimize the potential for disruption for our customers from the County's decision. But, if the County is going to force Rabanco to use the County transfer stations, then the County must provide the same level of services and hours of operations that Rabanco and its customers have needed and used for years.

Sincerely,  
Rabanco



Pete Keller  
Vice President

**EXHIBIT V**





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

711 TTY Relay

March 18, 2004

Pete Keller  
Rabanco Regional Disposal Company  
54 South Dawson Street  
Seattle, WA 98134

Dear Mr. Keller:

I am in receipt of your letter dated March 16, 2004, regarding Rabanco's use of King County transfer facilities. I disagree with many of the assertions that you have made and I remain concerned that you have not taken advantage of our repeated offers to discuss these important issues with us.

As I stated in my letter to you on March 3, 2004 (see attachment), the County is working hard to provide appropriate facility hours to accommodate Rabanco's needs. However, as we have stated previously, we need basic information regarding those needs, and unfortunately Rabanco has not provided any of the information requested.

Although you indicated in your letter that you had insufficient time to provide the requested tonnage information, the possibility that Rabanco would change its use of King County transfer facilities is not new. The discussion of the regional direct fee increase began many months ago. Since that time, the County has initiated repeated communication with Rabanco on this issue, including:

- A letter dated December 17, 2003 notifying Allied of the regional direct fee increase (see attachment)
- A letter dated January 4, 2004 requesting that any significant changes in pattern of usage of King County solid waste facilities be reported 30 days in advance of the change (see attachment)
- A meeting between you, Nick Herbert, Kevin Kiernan and myself on January 14, 2004, where we discussed the specific type of information needed in order for the County to determine what accommodations we could make to meet your disposal needs. At that meeting we were told that the information requested would be provided to us by the end of January 2004.

Pete Keller  
March 18, 2004  
Page 2

- A letter to you dated March 3, 2004 requesting more specific information on how Allied planned to use County facilities (see attachment)
- The County has also followed up with several additional phone messages, urging that we meet to discuss the issue.

The information we have requested is basic tonnage information that we believe should be readily available. The information you provided in your latest letter does not allow us to make reasonable decisions about transfer station hours. If there is a reason the information is not available, please let me know and we will work with you to determine other information that will help us identify appropriate facility operating hours that meet both our business needs.

Your demand that the County provide *24-hour service, seven days a week at all six* of our urban facilities to accommodate the tonnage that Rabanco will no longer handle at *one single* facility is not reasonable.

Therefore, we once again request that Rabanco provide the following basic tonnage information:

- 2003 data on the average incoming tonnage at your 3<sup>rd</sup> and Lander facility by day of the week and by two hour blocks (e.g. Monday 2:00 a.m. – 4:00 a.m.)
- Your best estimate on the amount of tonnage that you expect to come to our transfer system after hours by day of the week and by two-hour blocks, along with the preferred facility you would like to process this tonnage after hours.
- Information regarding your “routes that operate throughout the night and most of the weekend” (as referred to in your letter), including time schedule and tonnages involved.
- In addition, consistent with King County Code section 10.08.140, Rabanco must report any significant changes in patterns of usage of King County Solid Waste facilities 30 days in advance of the change.

The County has spent significant amounts of time and effort to ensure that Rabanco's needs are met efficiently and effectively, but you must work with us. As you know, we have already agreed to provide *new after-hours service* specifically for private collection companies. Beginning April 1, 2004 our Bow Lake facility will have after-hours operations from 8:00 p.m. to 6 a.m. Monday through Friday - which will mean that this transfer station will be available to Rabanco for 21.5 hours a day on weekdays.

In addition, we have agreed to continue to keep the Factoria transfer station open until 11:30 p.m. on weekdays and we plan to open the Renton transfer station at 6:00 a.m. – at least through June 1, 2004 - which means that we will have urban transfer station availability for

Pete Keller  
March 18, 2004  
Page 3

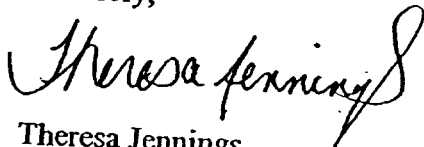
Rabanco 24 hours per day just as you have at the 3<sup>rd</sup> and Lander facility. We will keep providing evening hours past June if actual tonnage received justifies the after-hours service.

The County will continue to try to work with you to meet our mutual business needs. We expect that Rabanco will provide the basic information we have been requesting since January, as required by law.

As I stated in my letter of March 3, 2004, the County will work with you to accomplish an efficient use of transfer station facilities. However, consistent with applicable laws, the County will continue to require that all solid waste generated within the County, including its cities, be disposed of at County designated facilities and that no solid waste generated within the County be diverted to any out-of-County disposal sites.

If you have any further questions or concerns, please feel free to contact me, at 206-296-4385.

Sincerely,



Theresa Jennings  
Division Director

TJ:m

Enclosures

cc: Nick Harbert, Manager, Rabanco Regional Disposal Company  
Richard C. Yarmuth, Attorney at Law, Yarmouth Wilsdon Calfo PLLC  
Pam Bissonette, Director, Department of Natural Resources and Parks (DNRP)  
Kevin Kiernan, Engineering Services Manager, Engineering Services Section, Solid Waste Division, DNRP

**EXHIBIT W**

Christine O. Gregoire

**ATTORNEY GENERAL OF WASHINGTON**

1125 Washington Street SE • PO Box 40100 • Olympia, WA 98504-0100

**FAX COVER SHEET**

Date: June 16, 2004

Time: 8:45 AM

Please deliver the following 1 page(s)

**TO: KELLY CORR**

Fax Number: 206-625-0900

**COMMENTS:**

Here is a copy of the letter that is being mailed to you today.

**FROM: NARDA PIERCE**

Fax Number: 360-664-2963

Voice Number: 664-9018

If there is a problem receiving this fax, please call Becky Waldron at 753-4111.

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NOTE: THIS FAX TRANSMISSION IS INTENDED ONLY FOR THE ADDRESSEE SHOWN ABOVE. IT MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, OR OTHERWISE PROTECTED FROM DISCLOSURE. ANY REVIEW, DISSEMINATION, OR USE OF THIS TRANSMISSION OR ITS CONTENTS BY PERSONS OTHER THAN THE ADDRESSEE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND MAIL THE ORIGINAL TO US AT THE ABOVE ADDRESS. THANK YOU.

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Christine O. Gregoire

# ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

June 15, 2004

Kelly Corr  
CORR CRONIN  
1001 Fourth Avenue, Suite 3900  
Seattle, WA 91854-1051

Re: Request to Enforce State Accountancy Act, RCW 43.09.210

Dear Mr. Corr:

This will respond to your letter of May 25, 2004, requesting the Attorney General to either intervene in the existing lawsuit filed by Rabanco Ltd. or take other action under RCW 43.09.210 with regard to King County's budget and accounting actions related to the Cedar Hills Landfill. We understand this request is made to fulfill the condition precedent to filing a taxpayer action as described in *Reiter v. Wallgren*, 28 Wn.2d 872, 184 P.2d 571 (1947).

We generally will not become involved in a matter of local concern unless our involvement is necessary to address a clear violation of law by the responsible local officials that will result in significant harm to taxpayers. We have reviewed your letter and accompanying materials and have determined that an action by the Attorney General on behalf of taxpayers does not meet this standard at this time.

The authority of the Attorney General to bring an action on behalf of taxpayers is a separate and distinct authority from the statutory authority to determine whether to bring an action based upon a report and finding of noncompliance by the State Auditor. We reserve the ability to evaluate whether to take action in the future based upon any findings of noncompliance by the State Auditor. However, we believe our decision not to file an independent action on behalf of taxpayers at this point is sufficient to permit assertion of taxpayer standing by another party.

Sincerely,

NARDA PIERCE  
Solicitor General  
(360) 664-9018

NP/bw

cc: P. Stephen DiJulio

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