



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 118460

Record No.: CB 118460

Type: Ordinance (Ord)

Status: Passed

Version: 1

124830

In Control: City Clerk

File Created: 07/09/2015

Final Action: 08/14/2015

**Title:** AN ORDINANCE relating to the coordination of regional green business programs; authorizing the Directors of the Office of Economic Development, Seattle Public Utilities, and the Office of Sustainability and Environment, and the General Manager and Chief Executive Officer of the City Light Department, or their respective designees, to execute a memorandum of agreement between The City of Seattle, King County, by its Department of Natural Resources and Parks, the City of Bellevue, the City of Kirkland, Snohomish County, Puget Sound Energy, and Public Utility District No. 1 of Snohomish County, Washington to establish a regional green business program that coordinates and provides information about environmental sustainability services offered by all parties to the memorandum of agreement; authorizing the Director of the Office of Economic Development to accept funds under the memorandum of agreement, and appropriating and authorizing the disbursement of such funds in support of the regional green business program; increasing appropriations in the 2015 Adopted Budget for The City of Seattle's Office of Economic Development; and ratifying and confirming prior acts, all by a 3/4 vote of the City Council.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Okamoto

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: danielle.hursh@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:

Yes

No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	07/21/2015	Mayor's leg transmitted to Council	City Clerk			

- Action Text:** The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk  
**Notes:**
- 1 City Clerk 07/21/2015 sent for review Council President's Office
- Action Text:** The Council Bill (CB) was sent for review. to the Council President's Office  
**Notes:**
- 1 Council President's Office 07/23/2015 sent for review Committee on Housing Affordability, Human Services, and Economic Resiliency
- Action Text:** The Council Bill (CB) was sent for review. to the Committee on Housing Affordability, Human Services, and Economic Resiliency  
**Notes:**
- 1 Full Council 08/03/2015 referred Committee on Housing Affordability, Human Services, and Economic Resiliency
- Action Text:** The Council Bill (CB) was referred. to the Committee on Housing Affordability, Human Services, and Economic Resiliency  
**Notes:**
- 1 Committee on Housing Affordability, Human Services, and Economic Resiliency 08/06/2015 pass Pass
- Action Text:** The Committee recommends that Full Council pass the Council Bill (CB).  
In Favor: 2 Chair Okamoto, Alternate O'Brien  
Opposed: 0
- 1 Full Council 08/10/2015 passed Pass
- Action Text:** The Council Bill (CB) was passed by the following vote and the President signed the Bill:  
**Notes:**  
In Favor: 8 Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Okamoto, Councilmember Sawant  
Opposed: 0
- 1 City Clerk 08/11/2015 submitted for Mayor's signature Mayor
- Action Text:** The Council Bill (CB) was submitted for Mayor's signature. to the Mayor  
**Notes:**
- 1 Mayor 08/14/2015 Signed
- Notes:**
- 1 Mayor 08/14/2015 returned City Clerk
- Notes:**
- 1 City Clerk 08/14/2015 attested by City Clerk
- Action Text:** The Ordinance (Ord) was attested by City Clerk.  
**Notes:**
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CITY OF SEATTLE

ORDINANCE 124830

COUNCIL BILL 118460

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4  
5 AN ORDINANCE relating to the coordination of regional green business programs; authorizing  
6 the Directors of the Office of Economic Development, Seattle Public Utilities, and the  
7 Office of Sustainability and Environment, and the General Manager and Chief Executive  
8 Officer of the City Light Department, or their respective designees, to execute a  
9 memorandum of agreement between The City of Seattle, King County, by its Department  
10 of Natural Resources and Parks, the City of Bellevue, the City of Kirkland, Snohomish  
11 County, Puget Sound Energy, and Public Utility District No. 1 of Snohomish County,  
12 Washington to establish a regional green business program that coordinates and provides  
13 information about environmental sustainability services offered by all parties to the  
14 memorandum of agreement; authorizing the Director of the Office of Economic  
15 Development to accept funds under the memorandum of agreement, and appropriating  
16 and authorizing the disbursement of such funds in support of the regional green business  
17 program; increasing appropriations in the 2015 Adopted Budget for The City of Seattle's  
18 Office of Economic Development; and ratifying and confirming prior acts, all by a  $\frac{3}{4}$   
19 vote of the City Council.  
20

21 WHEREAS, multiple governmental entities and public utilities in the Seattle region provide a  
22 broad range of environmental sustainability services and programs to encourage  
23 businesses to reduce waste and operating costs, conserve resources, seek and gain  
24 community recognition, and increase their positive impacts on the environment; and

25 WHEREAS, the number and variety of decentralized green business services and programs  
26 offered across the region can be overwhelming and confusing to Seattle businesses and  
27 can preclude interest, engagement, and participation; and

28 WHEREAS, The City of Seattle (the "City") wishes to participate in a collaborative effort  
29 among governmental entities and public utilities in the Seattle region to create and  
30 implement a centralized regional green business program brand and web platform that

1 will more efficiently and effectively deliver green business services and help Seattle

2 businesses reach their sustainability goals; and

3 WHEREAS, the City wishes to contribute funding to the regional green business program; and

4 WHEREAS, the City wishes to accept funds provided by governmental and utility partners in the

5 regional green business program and to disburse such funds in implementing the regional

6 green business program agenda; and

7 WHEREAS, the City Council wishes to increase appropriations in the 2015 Adopted Budget for

8 the Office of Economic Development to reflect the anticipated receipt of the regional

9 partner funds and authorize the expenditure of these funds; NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. The Director of the Office of Economic Development, the Director of Seattle  
12 Public Utilities, the Director of the Office of Sustainability and Environment, and the General  
13 Manager and Chief Executive Officer of the City Light Department, or their respective  
14 designees, are authorized, for and on behalf of The City of Seattle (the "City"), to execute a  
15 memorandum of agreement between The City of Seattle, King County, by its Department of  
16 Natural Resources and Parks, the City of Bellevue, the City of Kirkland, Snohomish County and  
17 Public Utility District No. 1 of Snohomish County, Washington (the "MOA"). The MOA is  
18 intended to be effective July 30, 2015 through July 30, 2018, and the current draft of the MOA is  
19 attached to this ordinance as Attachment 1. The Directors and General Manager and Chief  
20 Executive Officer previously mentioned are authorized to negotiate and finalize the MOA on  
21 terms and conditions that are consistent with the draft version attached as Attachment 1 and that  
22 are in the best interests of the City.

1 Section 2. Contingent upon the execution of the MOA by each respective party, the  
2 Office of Economic Development (“OED”) may receive such funds from the parties as required  
3 by the MOA, and such funds shall be deposited into the City’s General Subfund. OED’s budget  
4 appropriation for the 2015 Adopted Budget shall be increased to correspond with the received  
5 amounts as follows:

Item	Fund	Department/Office	Budget Control Level	Amount
2.1	General Subfund (00100)	Executive	Office of Economic Development (00100-X1D00)	\$201,000

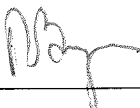
6  
7 This budget authority shall carry forward unless abandoned by future ordinance. Future  
8 appropriations will be adopted through supplemental legislation.

9 Section 3. Pursuant to the MOA, OED will be the initial fiscal agent for the coordination  
10 of the regional green business programs under the MOA and OED is authorized to disburse  
11 funds to implement actions under the regional green business programs for the first 3 years of the  
12 MOA.


13 Section 4. Any act consistent with the authority of this ordinance taken prior to its  
14 effective date is hereby ratified and confirmed.  
15

1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.


4 Passed by a minimum of a 3/4 vote of all of the members of the City Council the 10<sup>th</sup>  
5 day of AUGUST, 2015, and signed by me in open session in authentication  
6 of its passage this 10<sup>th</sup> day of AUGUST, 2015.

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8   
9 President \_\_\_\_\_ of the City Council

10  
11 Approved by me this 14<sup>th</sup> day of August, 2015.

12  
13   
14 Edward B. Murray, Mayor

15  
16 Filed by me this 14<sup>th</sup> day of AUGUST, 2015.

17  
18   
19 Monica Martinez Simmons, City Clerk

20 (Seal)

21 Attachments:

22 Attachment 1: Memorandum of Agreement: Establishing the EnviroStars Regional Green  
23 Business Program

**MEMORANDUM OF AGREEMENT:  
ESTABLISHING THE ENVIROSTARS REGIONAL GREEN BUSINESS PROGRAM**

**1.0 INTRODUCTION**

This Memorandum of Agreement ("MOA") is made by and among various governmental entities and utilities (hereby referred to as "Members") in the King/Snohomish County Region. This MOA addresses the basic relationship, roles and responsibilities in developing and implementing the EnviroStars Regional Green Business Program. Members have varying degrees of involvement that include participating at an Advisory, Steering or Executive level and/or contributing staff time to the program.

*1.1 Members*

The following entities are Members under this MOA:

- City of Bellevue
- City of Kirkland, Public Works Department
- King County
- Local Hazardous Waste Management Program in King County ("LHWMP")
- Public Utility District No. 1 of Snohomish County (Washington ("Snohomish PUD"))
- Puget Sound Energy ("PSE")\*
- City of Seattle, City Light Department ("SCL")
- City of Seattle, Office of Economic Development ("OED")
- City of Seattle, Office of Sustainability and the Environment ("OSE")
- City of Seattle, Seattle Public Utilities Department ("SPU")
- Snohomish County

\*PSE as a private utility is included as a Member, with all rights and responsibilities under this MOA of a Member, except that it shall not have the right to vote on matters related to budgeting and expenditures.

*1.2 Term of Agreement*

This MOA is effective upon the last signature of the eleven (11) Members identified above, and will remain in effect unless and until terminated in accordance with the provisions of Section 5.3 below.

**2.0 BACKGROUND**

Dozens of environmental sustainability services are currently offered by municipalities and private organizations to businesses in the Puget Sound Region. These programs are aimed at reducing the environmental impacts of businesses and feature a wide range of topics, including but not limited to, waste reduction (including hazardous waste and toxic chemical reduction), energy and water conservation, stormwater pollution prevention, and greenhouse gas reduction. In Seattle alone, six different agencies offer more than 30 environmental services and rebate programs to businesses with very little coordinated outreach. Businesses

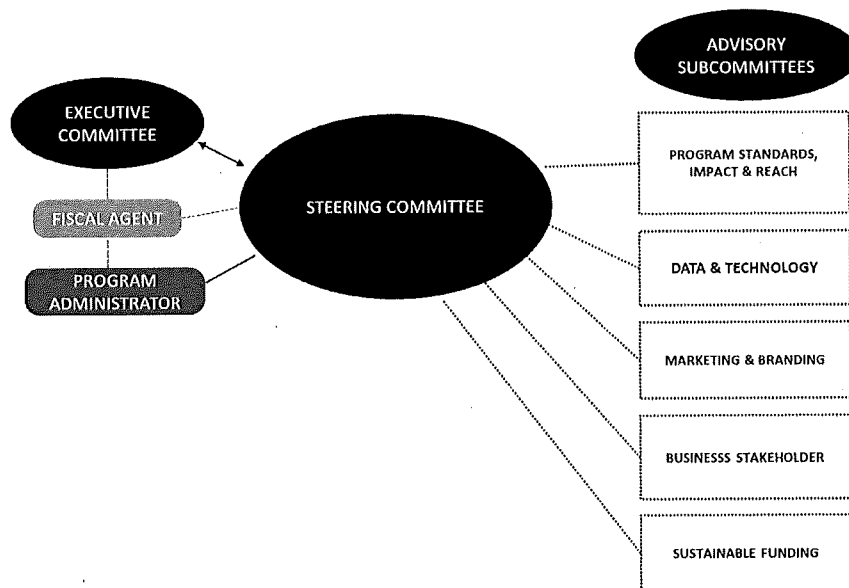
value these programs and services, but often do not know which agency to contact to get the services they need.

The City of Seattle's OED convened a series of meetings with a group of regional partners — City of Bellevue, City of Kirkland, OED, SPU, SCL, OSE, LHWMP/EnviroStars, King County, Puget Sound Energy, Snohomish PUD, and Snohomish County, in order to take a collaborative approach in exploring ways to make it easier for businesses to access environmental sustainability programs.

### 3.0 ROLES AND RESPONSIBILITIES OF THE PARTICIPATORY PARTNERS

The EnviroStars Regional Green Business Program will be governed by an Executive Committee and a Steering Committee. Members shall appoint individuals to represent that Member for either or both of these Committees. A third party contractor will provide administrative oversight, marketing, and website management and support of the governing committees ("Program Administrator"). For the first three years of this MOA, Seattle's OED will be the fiscal agent ("Fiscal Agent"). Figure 1 shows the governance model for the EnviroStars Regional Green Business Program. Note that the Advisory Subcommittees are listed for illustration only; particular Advisory Subcommittees will be created, and membership on the Subcommittees will be appointed, by the Steering Committee.

**Figure 1: EnviroStars Regional Green Business Program Governance Model**



The Executive and Steering Committees will attempt to make decisions by consensus so as to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any Member of a Committee may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. This shall consist of a 2/3 supermajority of votes for weighted votes cast as provided for in Sections 3.1 and 3.2, and a simple majority of votes based on the number of Members voting. Registering a vote at a meeting can be done in person, by phoning in to the meeting, or by sending a delegate/proxy to vote. A quorum must be present in order for a



vote to take place or for a decision by consensus to be made. A quorum is defined as the minimum number of Members necessary such that two-thirds of the total Member financial contribution is represented and a simple majority of the Members is represented.

### *3.1 Executive Committee*

The Executive Committee is a small group that is a subset of the Members which focuses on strategic and policy issues. The Executive Committee will adopt rules and procedures for its operations, and those of the other Committees, or may delegate this authority to the other Committees for their own operation. Such rules and procedures must be consistent with the terms of this MOA. Details regarding the nature, scope and purpose of the Executive Committee are as follows:

- **Membership:** The Executive Committee will be comprised of a subset of the Members. Membership on the Executive Committee will be dependent upon the level of financial contribution, so that Members contributing higher levels of funding have higher levels of input on key management issues. To qualify for membership on the Executive Committee, a Member must commit to contributing an average of \$15,000 a year for the first three years, and thereafter at least \$15,000 for each year to be eligible to sit on the Executive Committee. Members contributing less than this will be aggregated into a “smaller contribution” caucus that will have one representative on the Executive Committee. The Executive Committee will have a maximum of eight Members, including the caucus. If there are more eligible Members than places on the Executive Committee, the places will be filled based on the seven highest financial contributors and the remaining Members will become part of the caucus, which will have one place on the Executive Committee.
- **Voting:** The Executive Committee will attempt to make decisions by consensus to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any member of the Executive Committee may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. The first majority must be a supermajority (2/3) vote, which will be weighted proportionally to financial contributions, including the “smaller contribution” caucus (i.e., the weight of each vote will be based on the percentage of the contribution to the Member-funded budget). Table 1 shows the weighting for the initial eleven Members, based on the contributions detailed in Table 3. For the “smaller contribution” caucus, while the caucus is represented by one Member, the actual votes of the caucus for supermajority weighted votes purposes will be counted at the individual Member level. The second majority required for approval of a matter is a simple majority of the Members voting at the meeting, subject to quorum requirement.

**Table 1: Voting Details**

Member (ranked by contribution)		3 Year Average Contribution	Relationship to Executive Committee	% of Member Funding	Weight of Vote
1	Seattle - SPU	\$100,000	Individual Member	46%	0.46
2	Seattle - SCL	\$25,000	Individual Member	12%	0.12
3	LHWMP	\$20,000	Individual Member	9%	0.09
4	King County	\$20,000	Individual Member	9%	0.09
5	Snohomish PUD	\$15,000	Individual Member	7%	0.07
6	PSE	\$15,000	Individual Member	7%	0.07
7	City of Bellevue	\$5,000	Smaller Contribution Caucus	2%	0.02
8	City of Kirkland	\$5,000		2%	0.02
9	Snohomish County	\$5,000		2%	0.02
10	Seattle - OED	\$5,000		2%	0.02
11	Seattle - OSE	\$333		0%	0.002
<b>Total</b>		<b>\$215,333</b>		<b>100%</b>	<b>1.00</b>

- **Decision Types:** The Executive Committee is responsible for decisions that are strategic and policy in nature. These decisions concern issues that are broad, system-wide and impact long-term strategy, budget, overall program structure, and future direction and growth.
- **Relationship to Steering Committee:** The Executive Committee gives direction to the Steering Committee. The Executive Committee will also rely heavily on information and research provided by the Steering Committee, (which in turn works with various Advisory Subcommittees and the Program Administrator.
- **Meeting Frequency:** The Executive Committee is expected to meet quarterly, or as needed.

### 3.2 Steering Committee

The Steering Committee consists of the eleven initial Members and any Members subsequently added, as provided for in Section 5.1. The Steering Committee makes tactical and administrative decisions and carries out, or directs, most of the workload. Details regarding the nature, scope and purpose of the Steering Committee are as follows:

- **Membership:** The Steering Committee will be comprised of at least one representative from each Member. Multiple representatives from each Member are allowed; however, only one representative from each Member will have the right to vote on behalf of that Member.
- **Voting:** The Steering Committee will attempt to make decisions by consensus to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any Member may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. The first majority must be a supermajority (2/3) vote, which will be weighted proportionally to financial contributions (i.e., the weight of each vote will be based on the percentage of the contribution to the Member-funded budget). The second majority required for approval of a matter is a simple majority of the Members voting at the meeting, subject to quorum requirements.
- **Decision Types:** The Steering Committee is responsible for decisions that are tactical or administrative in nature.
- **Relationship to Executive Committee:** The Steering Committee receives direction from the Executive Committee. The Steering Committee will also research issues of a strategic policy nature at the request of the Executive Committee.
- **Relationship to Program Administrator:** The Steering Committee will provide direct oversight of the Program Administrator.
- **Subcommittees:** The Steering Committee will create and manage Advisory Subcommittees tasked with managing or researching specific issues, as needed. Advisory Subcommittees can be long-term groups intended for ongoing work (e.g., marketing) or short-term groups created to research a specific topic. The particular subcommittees to be formed will be determined by the Steering Committee within the first three months after the MOA is fully executed. Membership on the subcommittees will come from the main Steering Committee, but may also include Member representatives that are not on the Steering Committee.
- **Chair:** The Steering Committee will be chaired by each Member on a one-year, rotating basis. The initial chair will be elected within the first three months after the MOA is fully executed. The rotation will be determined within the first six months after the MOA is fully executed, but may be revised if a new Member(s) joins or a Member cannot fill the chair role during its required year.
- **Meeting Frequency:** The Steering Committee is expected to meet monthly, or as needed.

### *3.3 Program Administrator*

A Program Administrator will be hired to perform three functions: 1) program management and administration, 2) web platform development and support, and 3) marketing, engagement, and recognition. The Program Administrator will receive strategic direction

from the Executive Committee and tactical direction from the Steering Committee. The Program Administrator is not authorized to accept or reject new membership under this MOA, without unanimous approval of the then existing Steering Members. The Program Administrator is not authorized to distribute funds from any individual member program. The Program Administrator will be paid by the Fiscal Agent (Section 3.4) with pooled funds (Section 4.0). Compensation for the Program Administrator will be determined by the Executive Committee

The Program Administrator will be hired through a solicitation process, which will be conducted by City of Seattle’s OED, and which will follow City of Seattle’s contracting procedures, including Women and Minority Owned Businesses (WMBE) participation. The associated scope of work will be agreed to by the Executive Committee prior to contract signage.

The Program Administrator is authorized to sign the addendum referred to in Section 5.1 below upon authorization being granted by the Steering Committee, in accordance with the terms of Section 5.1.

*3.4 Fiscal Agent*

The City of Seattle’s Office of Economic Development (OED) is the Fiscal Agent for the initial three (3) years of the MOA. Once this period is over, the next Fiscal Agent will be nominated and voted on by the Steering Committee with final approval of the Executive Committee. OED shall annually invoice and collect payments for the Member funds obligations set forth in Table 3 over the three (3) year period. The Fiscal Agent will invoice Members at the beginning of each 12 month period on their agreed amounts, 30 days prior to their payment due date or as requested by the Member and agreed to by the Executive Committee. Table 2 summarizes billing details for all Members. The Fiscal Agent is authorized to pay the Program Administrator as provided for in the Program Administrator contract. The Fiscal Agent is also authorized to accept funds from Members, grants, and gifts, all for purposes consistent with this MOA.

**Table 2: Billing Details**

<i>Member</i>	LHWMP, Snohomish PUD, City of Kirkland, City of Bellevue King County, PSE, Snohomish County,	SPU, OSE, SCL, OED
<i>Payment Due</i>	30 days after receiving invoice	30 days after receiving invoice
<i>Payment Type</i>	Invoice/check	Inter-fund payment/journal via Summit
<i>Fund #</i>	N/A	00100
<i>Org</i>	N/A	X6D21
<i>Project</i>	N/A	XDELRGBI
<i>Activity#</i>	N/A	RGBI
<i>Address:</i>	PO Box 94708, Seattle, WA 98124-4708	Mail Stop SMT-57-52
<i>Attention:</i>	Senior Finance Analyst, OED	Senior Finance Analyst, OED

#### 4.0 FUNDING

This MOA establishes an EnviroStars Regional Green Business Pooled Fund account (hereinafter referred to as “Pooled Fund”) to which funds will be deposited for the purpose of providing funding for uses identified in this MOA to include:

- Hiring of a Program Administrator to assist with program planning, implementation, and management;
- The procurement and customization of a website and customer relationship management (CRM) platform; and
- Joint marketing, advertising, and outreach.

Total annual contributions from the Members as well as grants to the Pooled Fund for the first three (3) years of this MOA are specified in Table 3. The funding requirements for Member fees for the first three (3) years reflect the benefits each Member anticipates achieving from the program. Those benefits are based on: 1) the relative size of the targeted business community, 2) how each Member plans to utilize the program, 3) and how quickly they can implement those plans. For example, some Members are poised to immediately and fully utilize the program (e.g., SPU). Members that are participating in a non-utility capacity (i.e., with funds from general fund budgets) may provide additional staff time to the program which in turn can result in a lower contribution amount.

The funding requirements for Member support in subsequent years may be modified based on some Members’ ability to better utilize the program at that point. Changes to the Member funding requirements will be developed by the Steering Committee and will require final unanimous approval by the Executive Committee. For future years, Table 3 below will be replaced with a revised table reflecting funding obligations for each Member, and such revised table or tables will be attached to this MOA as an addendum.

**Table 3: Pledged Pooled Support Funds for First Three Years**

Funding Source	Year 1		Year 2		Year 3	
	Dollars	Labor FTE	Dollars	Labor FTE	Dollars	Labor FTE
<b>Members</b>						
City of Bellevue	\$5,000	0.10	\$5,000	0.10	\$5,000	0.10
City of Kirkland, Public Works Department	\$5,000	0.25	\$5,000	0.25	\$5,000	0.25
King County	\$20,000	0.10	\$20,000	0.10	\$20,000	0.10
Local Hazardous Waste Management Program in King County	\$10,000	0.50	\$25,000	0.50	\$25,000	0.50
Public Utility District No. 1 of Snohomish County	\$15,000	tbd	\$15,000	tbd	\$15,000	tbd
Puget Sound Energy	\$15,000	0.10	\$15,000	0.10	\$15,000	0.10
City of Seattle, City Light Department	\$25,000	tbd	\$25,000	tbd	\$25,000	tbd
City of Seattle, Office of Economic Development	\$5,000	0.25	\$5,000	0.50	\$5,000	0.50
City of Seattle, Office of Sustainability and the Environment	\$1,000	0.10	\$0	0.15	\$0	0.15
City of Seattle, Seattle Public Utilities Department	\$100,000	0.50	\$100,000	0.50	\$100,000	0.50
Snohomish County	\$5,000	tbd	\$5,000	tbd	\$5,000	tbd
Subtotal – Members	\$206,000	1.90	\$220,000	2.20	\$220,000	2.20
<b>Grants</b>						
Washington State Department of Ecology <sup>1</sup>	\$85,000	n/a	\$0	n/a	\$0	n/a
US EPA National Environmental Information Exchange Network <sup>2</sup>	\$100,000	n/a	\$58,000	n/a	\$0	n/a
Subtotal – Grants	\$185,000	n/a	\$58,000	n/a	\$0	n/a
<b>Total</b>	<b>\$391,000</b>		<b>\$278,000</b>		<b>\$220,000</b>	

<sup>1</sup> This grant has been awarded for Year 1. Ecology is also interested in assisting with funding for Years 2 and 3, although no firm commitment beyond Year 1 has been made.

<sup>2</sup> These dollars represent the portion of a grant awarded to the Western Sustainability and Pollution Prevention Network, which will be used to upgrade an existing web platform used by the California Green Business Network for use by the EnviroStars Regional Green Business Program.

Any surplus funds at the end of a 12-month period will be identified by the Fiscal Agent. The Steering Committee will present recommendations to the Executive Committee as to how these excess funds should be utilized. The Executive Committee shall make the final decision of use of excess funds.

The acquisition of real and personal property is not anticipated under this MOA. However, in the event that that occurs, it will be acquired by the Program Administrator or Steering

Committee under the direction of the Executive Committee and will be held by whatever Member or entity that the Executive Committee so authorizes.

## 5.0 AGREEMENTS

In order to foster the successful implementation of the terms of this MOA, Members agree to the following terms and conditions:

- 1) Each Member agrees to undertake activities under the terms of this MOA and to further the goals and purposes of this MOA, subject to the terms and conditions provided for herein. The Members agree to collaboratively work together and to resolve any disputes that may arise through good faith negotiations.
- 2) Members will sign and operate under a separate licensing agreement with King County. This Servicemark Licensing Agreement grants and conveys to each Member and the Program Administrator, collectively and individually a non-transferable license to use the EnviroStars brand and logo for the period of this MOA. A form of the Servicemark Licensing Agreement is attached to this MOA as Attachment B. The current EnviroStars brand and logo is a trademark registered with the State of Washington Secretary of State for a five year period, which ends in October 2017. King County intends to seek renewal of this trademark in 2017, so that its use will continue through the initial three year duration of this MOA and thereafter. In the unlikely event that the trademark is not renewed, the Members agree to collaboratively work with King County so that the purposes and goals of this MOA may continue.
- 3) Nothing in this MOA shall be construed to authorize or permit any violation of any Federal, State or local law, including but not limited to, any environmental law.
- 4) All Members acknowledge that participation in this MOA does not constitute an endorsement, express or implied, of (a) any policy advocated by any of the individual Members, or (b) any good or service offered by any individual Member..

### *5.1 Addition of a Member to this MOA*

At any time after the effective date of this MOA, additional Members may join, subject to the terms of this section 5.1. The funding formula for additional Members will be a base fee of \$5,000 plus an additional component that reflects their anticipated benefits. Those benefits will be based on: 1) the relative size of their targeted business community, 2) how they plan to utilize the program, and 3) how quickly they can implement those plans. For an entity to become a Member, it must be a government, a governmental agency, or a utility; must have unanimous approval of the then existing Members of the Steering Committee; and be subject to the terms and conditions of this MOA through signing an addendum to this MOA, which shall occur no later than sixty (60) days prior to the end of any given one year period. The

addition of a new Member through the execution of an addendum to this MOA shall not be deemed an amendment to this MOA.

### *5.2 Withdrawal of a Member from this MOA*

Each Member, for its convenience and without cause or for any reason, may withdraw from participation in the MOA by providing written notice. Such Members may, upon written notice being provided to the Executive Committee a minimum of sixty (60) days prior to the due date for its payment of the annual invoice, withdraw from being a party to this MOA. If the Member withdraws from its participation under this MOA, pursuant to this Section, it shall be responsible for making payment in accordance with the terms of the MOA for work performed and accepted prior to the effective date of withdrawal.

In the event of withdrawal by a Member, this MOA shall terminate as to that Member but shall continue in effect with respect to the remaining Members. However, the withdrawal from participation under this MOA by a Member shall not affect any of the other Members' rights or obligations, or any rights or obligations of the withdrawing Member, that are expressly intended to survive termination. In the event of withdrawal of a member, the amount of weighted vote assigned to the remaining Members shall be recalculated.

In the event that a Member has its License to use the ServiceMark terminated under the terms of the ServiceMark Licensing Agreement (Attachment B), that Member shall no longer have the right under the terms of this MOA to use the ServiceMark for any purpose from the date of such termination and afterward, and the other Members may terminate the membership of such Member by the unanimous vote of the other Members. The termination of the membership of such Member shall be treated as a withdrawal by the Member, as provided for above.

### *5.3 Termination of this MOA*

All Members must agree to terminate this MOA in order for such termination to be effective. The effective date of the termination will be determined by the Executive Committee, but must be no less than ninety (90) days after the date of the Executive Committee meeting during which the termination is agreed to. After the decision to terminate the MOA is made, the hired Program Administrator will be directed to close out work under the terms of this MOA. Each Member will receive its pro-rata share of remaining funds to the extent that those funds have not been paid to close out the work under this MOA.

To the extent that obligations for funding under this MOA require future appropriations beyond current appropriation authority, each of the Members' obligations are contingent upon the appropriation of sufficient funds by that Member's legislative authority, or other authorizing authority, for the specific purpose, to meet the financial obligations described herein in accordance with applicable law. If no such appropriation is made for such Member, this MOA will terminate as to that Member only, at the close of the appropriation year for which the last appropriation that funds the obligations of that Member was made.

### *5.4 Dispute Resolution Process*



The Members, through their designated representatives to the Steering Committee per Section 3.2 of the MOA, shall use their best efforts to resolve any disputes pertaining to this MOA that may arise between the Members. If these designated representatives are unable to resolve a dispute, the matter shall be reviewed by the Executive Committee, which shall review and make their best attempt to resolve the dispute. The Members agree to exhaust each of these procedural steps before seeking to resolve the dispute through litigation. The venue for any such litigation shall be should be reflected by the parties involved; otherwise it will be King County Superior Court.

#### *5.5 Severability*

If any of the provisions contained in this MOA are held illegal, invalid, or unenforceable, the remaining provisions shall continue in full force and effect. If any provision of this MOA shall be held invalid, such invalidity shall not affect the other provisions of this MOA which shall remain in effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purposes of this MOA. To this end, the provisions of this MOA are declared to be severable. Should the invalidated provision be necessary to accomplish the purpose of the MOA, the Members agree to negotiate a provision which will allow such purpose to be accomplished. If agreement cannot be reached on a replacement provision, the MOA will be deemed terminated as of the date required by the invalidation.

#### *5.6 Hold Harmless and Indemnification*

To the extent permitted by state law, including R.C.W. 35.32A.090, and for the limited purposes set forth in this MOA, each Member shall protect, defend, hold harmless and indemnify the other Members, their officers, elected officials, agents and employees, while acting within the scope of their duties as such, from and against any and all claims (including demands, suits, penalties, liabilities, damages, costs, expenses, or losses of any kind or nature whatsoever) arising out of or in any way resulting from such Member's own negligent acts or omissions related to such Member's participation and obligations under this MOA. Each Member agrees that its obligations under this subsection extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, each Member, by mutual negotiation, hereby waives, with respect to the other Members only, any immunity that would otherwise be available against such claims under the industrial insurance act provision of Title 51 RCW. The provisions of this subsection shall survive and continue to be applicable to any Member exercising the right of termination pursuant to Section 5.3.

#### *5.7 No Preclusion of Activities or Projects*

Nothing herein shall preclude any Member from choosing or agreeing to fund or implement any work activities or projects associated with any of the purposes hereunder by separate agreement or action, provided that any such decision or agreement shall not impose any funding, participation or other obligation of any kind on the other Members.

#### *5.8 Entirety of Complete Agreement*

This MOA supersedes all prior negotiations, representations and agreements between the Members to the subject matter hereof and constitutes the entire agreement between the Members. This MOA may be amended only by written agreement of all the Members.

### *5.9 Counterparts*

This MOA may be executed by facsimile or electronic mail in any number of current parts and signature pages hereof with the same effect as if all Members had all signed the same document. All executed current parts shall be construed together, and shall, together with the text of this MOA, constitute one and the same instrument.

### *5.10 No Third Party Beneficiary*

This MOA and any activities authorized hereunder shall not be construed as granting any rights or privileges to any third person or entity.

## **6.0 INSURANCE**

Each Member shall maintain in full force and effect throughout the term of this MOA, a minimum of One Million Dollars (\$1,000,000) liability insurance for property damage and bodily injury. In satisfying the insurance requirements set forth in this section, the Member may self-insure against such risks in such amounts as are consistent with good practice or shall obtain a coverage agreement through a Risk Pool authorized by state statute, which shall provide liability coverage to the Member for the liabilities contractually assumed by the Member in this MOA. At the time of execution of this MOA, and prior to commencement of performance of any work, each member shall furnish any Member, upon request, with a Certificate of Insurance or its equivalent as evidence that policies providing insurance (or self-insurance) with such provisions, coverage's and limits are in full force and effect.

The Steering Committee or designee shall insure that the Program Administrator and all others performing any work under this agreement shall obtain insurance appropriate to the services being provided and in amounts sufficient to cover the risks posed by such work.

## **7.0 MAINTENACE OF RECORDS**

The Fiscal Agent shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel from any Member, other personnel duly authorized by any Member, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this MOA will be retained for six (6) years after expiration of the MOA and two (2) additional years in the event any Member receives a public records request for said records. The Office of the State Auditor, federal auditors, and any persons duly authorized by the Members shall have full access and the right to examine any of these materials during this period.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Records and other documents, in any medium, furnished by one Member to another Member, will remain the property of the furnishing Member, unless otherwise agreed. The receiving Member will not disclose or make available any confidential information to any third parties without first giving notice to the furnishing Member and giving it a reasonable opportunity to respond. Each Member will utilize reasonable security procedures and protections to assure that records and documents provided by the other Member are not erroneously disclosed to third parties. However, the Members, except for Member PSE, acknowledge that they are subject to chapter 42.56 RCW, the Public Records Act and nothing in this MOA shall be interpreted as requiring a Member to take actions or fail to take actions in violation of any provisions of this Act.

The Members hereby agree to the foregoing MOA, as represented by the signatories listed on the following pages. This Memorandum of Agreement may be executed in counterparts.

<b>For the City of Bellevue:</b>	<b>Signature:</b>
Claudia Balducci, Mayor of City of Bellevue	

<b>For the City of Kirkland, Public Works Department:</b>	<b>Signature:</b>
Kathy Brown, Director of Public Works	

<b>For the Local Hazardous Waste Management Program in King County:</b>	<b>Signature:</b>
Lynda Ransley, Director of LHWMP	

<b>For King County:</b>	<b>Signature:</b>
Christie True, Director of Department of Natural Resources and Parks	
Harold Taniguchi, Director of Department of Transportation	

<b>For the Public Utility District No. 1 of Snohomish County:</b>	<b>Signature:</b>
Jim West Assistant General Manager Customer and Energy Services	



<b>For Puget Sound Energy:</b>	<b>Signature:</b>
Jason Teller, Vice President Customer Solutions	

<b>For the City of Seattle, City Light Department:</b>	<b>Signature:</b>
Craig Smith, Director of Conservation	

<b>For the City of Seattle, Office of Economic Development:</b>	<b>Signature:</b>
Brian Surratt, Director	

<b>For the City of Seattle, Office of Sustainability and the Environment:</b>	<b>Signature:</b>
Jessica Finn Coven, Director	

<b>For the City of Seattle, Seattle Public Utilities Department:</b>	<b>Signature</b>
Ray Hoffman, Director	

<b>For Snohomish County:</b>	<b>Signature</b>
John Lovick, Snohomish County Executive	