



SEATTLE CITY COUNCIL

Transportation and Seattle Public Utilities

Agenda

Tuesday, July 18, 2023

9:30 AM

Public Hearing

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Alex Pedersen, Chair
Dan Strauss, Vice-Chair
Lisa Herbold, Member
Tammy J. Morales, Member
Kshama Sawant, Member

Chair Info: 206-684-8804; Alex.Pedersen@seattle.gov

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July 18, 2023 - 9:30 AM
Public Hearing

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/transportation-and-seattle-public-utilities>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Pedersen at alex.pedersen@seattle.gov

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [CB 120614](#) **AN ORDINANCE relating to grant funds from non-City sources; authorizing the heads of various departments to accept specified grants and execute related agreements for and on behalf of the City; amending Ordinance 126725, which adopted the 2023 Budget, including the 2023-2028 Capital Improvement Program (CIP); changing appropriations to various departments and Budget Control Levels, and from various funds in the Budget; and revising allocations and spending plans for certain projects in the 2023-2028 CIP; and ratifying and confirming certain prior acts.**

Supporting
Documents:

[Summary and Fiscal Note
Presentation](#)

Briefing, Discussion, and Possible Vote

Presenter: Chris Godwin, Seattle Department of Transportation

2. [CB 120613](#) **AN ORDINANCE granting 300 Pine Street Condominium Association permission to continue maintaining and operating a pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street; repealing Section 9 of Ordinance 124985; and providing for acceptance of the permit and conditions.**

Supporting
Documents:

[Summary and Fiscal Note](#)
[Summary Att A - 300 Pine St Skybridge Area Map](#)
[Summary Att B - 300 Pine St Skybridge Images](#)
[Summary Att C – 300 Pine St Skybridge Fee Assessment](#)
[Presentation](#)
[Central Staff Memo](#)

Briefing, Discussion, and Possible Vote

Presenter: Amy Gray, Seattle Department of Transportation

3. [CB 120600](#) **AN ORDINANCE establishing additional uses for automated traffic safety cameras and designating restricted racing zones; amending Section 11.50.570 of the Seattle Municipal Code; and adding a new Section 11.50.580 to the Seattle Municipal Code.**

Supporting
Documents:

[Summary and Fiscal Note](#)
[Presentation \(6/20/23\)](#)
[Amendment 1](#)
[Amendment 2](#)

Briefing, Discussion, and Possible Vote

Presenter: Calvin Chow, Council Central Staff

4. **Seattle Department of Transportation Annual Equity Report**

Supporting
Documents: [Presentation](#)

Briefing and Discussion

Presenters: Greg Spotts, Director, Michele Domingo, Salma Siddick, Annya Pintak, and Barbie-Danielle DeCarlo, Seattle Department of Transportation

5. [CB 120611](#) **AN ORDINANCE relating to Seattle Public Utilities; declaring property at 8817 Seward Park Avenue S, commonly known as the Former Henderson St Pumping Plant, as surplus to the City's needs; authorizing the sale of this real property as a direct sale to Seattle Public Schools; authorizing the General Manager and CEO of Seattle Public Utilities to execute all documents for the sale of the property; designating the proceeds from the sale; and ratifying and confirming certain prior acts.**

Attachments: [Att A - Former Henderson St Pumping Plant Conditional Purchase and Sale Agreement](#)

Supporting
Documents: [Summary and Fiscal Note](#)
[Summary Att 1 - Former Henderson St Pumping Plant Site Map](#)
[Summary Att 2 - Final Recommendation Report on the SPU Former Henderson Pump Station](#)
[Presentation](#)

Public Hearing, Briefing, Discussion, and Possible Vote

Presenters: Karen Gruen, Department of Finance and Administrative Services; Michelle Hanshaw and Mike Skutack, Seattle Public Schools

6. [CB 120612](#) **AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute contracts with Cedar Grove Composting, Inc. and Lenz Enterprises, Inc for organic waste processing services; and ratifying and confirming certain prior acts.**

Attachments: [Att 1 – Contract with Cedar Grove Composting, Inc.](#)
 [Att 2 – Contract with Lenz Enterprises, Inc.](#)

Supporting
Documents: [Summary and Fiscal Note](#)
 [Central Staff Memo](#)
 [Presentation](#)

Briefing, Discussion, and Possible Vote

Presenters: Sally Hulsman and Jeff Fowler, Seattle Public Utilities

E. Adjournment



Legislation Text

File #: CB 120614, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to grant funds from non-City sources; authorizing the heads of various departments to accept specified grants and execute related agreements for and on behalf of the City; amending Ordinance 126725, which adopted the 2023 Budget, including the 2023-2028 Capital Improvement Program (CIP); changing appropriations to various departments and Budget Control Levels, and from various funds in the Budget; and revising allocations and spending plans for certain projects in the 2023 -2028 CIP; and ratifying and confirming certain prior acts.

WHEREAS, on September 23, 2021, the Puget Sound Regional Council (PSRC) awarded Federal Transit Administration (FTA) American Rescue Plan Act of 2021 (ARPA) funding to two City of Seattle (“City”) projects; and

WHEREAS, on March 20, 2023, the U.S. Department of Transportation awarded Strengthening Mobility and Revolutionizing Transportation (SMART) funding to one City project; and

WHEREAS, on April 28, 2023, PSRC awarded Federal Highway Administration (FHWA) funding to two City projects; and

WHEREAS, these grants require execution of agreements contingent on acceptance of the grants by July 15, 2023; and

WHEREAS, pursuant to RCW 35.22.570 and 35A.11.040, the City’s legislative body has the power to accept grants; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Directors of the Seattle Department of Transportation and Seattle Center Department are authorized to accept the following non-City funding from the grantors listed below, and to execute, deliver, and

perform agreements for the purposes described below. The funds, when received, shall be deposited in the receiving fund identified below to support, or as reimbursement for, the corresponding appropriations set forth in Sections 2 and 3 of this ordinance.

Item	Department	Fund	Grantor	Purpose	Amount
1.1	Seattle Department of Transportation	Transportation Fund (13000)	PSRC - Federal Highway Administration	Build traffic management systems on 80th St and 85th St ITS Corridors project	\$845,000
1.2	Seattle Department of Transportation	Transportation Fund (13000)	PSRC - Federal Highway Administration	Rehabilitate two areaway walls on Pioneer Square Historic Areaway Restoration, Phase 1 project	\$350,000
1.3	Seattle Department of Transportation	Transportation Fund (13000)	USDOT - Office of the Secretary	Improve curbside access for commercial vehicles on Last Mile Freight Curb Access project	\$1,996,000
1.4	Seattle Department of Transportation	Seattle Streetcar Operations Fund (10800)	PSRC - Federal Transit Administration	Keep the Seattle Streetcar system in a state of good repair and mitigate operating deficit caused by service interruptions and drop in ridership and revenue due to the COVID-19 pandemic	\$1,203,164
1.5	Seattle Center	Seattle Center Fund (11410)	PSRC - Federal Transit Administration	Preventative maintenance to Seattle Center Monorail to prevent, respond to and recover from the COVID-19 pandemic	\$2,807,384
					\$7,201,548

Section 2. Contingent upon the execution of the grant or other funding agreement and receipt of the grant funds authorized in Section 1 of this ordinance, the appropriations for the following items in the 2023 Budget are increased as follows:

Item	Department	Fund	Budget Summary Level	Amount
2.1	Seattle Department of Transportation	Transportation Fund (13000)	Mobility Operations (BO-TR-17003)	\$1,996,000

Total				\$1,996,000
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Unspent funds so appropriated shall carry forward to subsequent fiscal years until they are exhausted or abandoned by ordinance.

Section 3. Contingent upon the execution of grant or other funding agreements and receipt of the grant funds authorized in Section 1 of this ordinance, appropriations in the 2023 Budget and project allocations in the 2023-2028 Adopted Capital Improvement Program for the following items are increased as follows:

Item	Department	Fund	Budget Summary Level	Additional Budget Appropriation	Project Name	2023 Amount
3.1	Seattle Department of Transportation	Transportation Fund (13000)	Major Maintenance/Replacement (BC-TR-19001)	\$845,000	Signal Major Maintenance (MC-TR-C026)	\$845,000
3.2	Seattle Department of Transportation	Transportation Fund (13000)	Major Maintenance/Replacement (BC-TR-19001)	\$350,000	Hazard Mitigation Program - Areaways (MC-TR-C035)	\$350,000
3.3	Seattle Center	Seattle Center Fund (11410)	Monorail Rehabilitation (BC-SC-S9403)	\$2,807,384	Seattle Center Monorail (MC-SC-S9403)	\$2,807,384
Total						\$4,002,384

Section 4. Any action consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

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

Passed by the City Council the _____ day of _____, 2023, and signed by

me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Seattle Dept of Transportation	Bill LaBorde	Aaron Blumenthal

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to grant funds from non-City sources; authorizing the heads of various departments to accept specified grants and execute related agreements for and on behalf of the City; amending Ordinance 126725, which adopted the 2023 Budget, including the 2023-2028 Capital Improvement Program (CIP); changing appropriations to various departments and Budget Control Levels, and from various funds in the Budget; and revising allocations and spending plans for certain projects in the 2023-2028 CIP; and ratifying and confirming certain prior acts.

Summary and Background of the Legislation: This legislation would authorize SDOT to execute agreements for federal funds awarded to the City by the Puget Sound Regional Council (PSRC) on September 23, 2021 and April 28, 2023 and by the U.S. Department of Transportation on March 20, 2023.

The first grant awarded by PSRC constitutes American Rescue Plan Act of 2021 (ARPA) funding from the Federal Transit Administration for COVID-19 relief for the Seattle Center Monorail and Seattle Streetcar projects. The grant agreements for these funds have been drafted and approved by the FTA, and are awaiting Seattle Department of Transportation signature. The two remaining grants awarded by PSRC are reallocated funds awarded to two projects previously placed on a contingency list by PSRC, specifically Intelligent Transportation System improvements to signals on NW 80th and 85th and restoration of Pioneer Square historic areaways. PSRC is requiring the funds be obligated by July 15, 2023, therefore the ordinance includes a ratify and confirm clause.

The grant awarded directly by the U.S. Department of Transportation is awarded for Phase 1 of a technology project that will allow the department to better manage curbside delivery access to locations in Belltown and Denny Triangle which requires swift obligation and project delivery to ensure good performance and to position the City well for a subsequent Phase 2 award; therefore, it is included in this legislation alongside the time-sensitive PSRC grants.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? X Yes No

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2028:
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80th St and 85th St ITS Corridors	MC-TR-C026	N/NW 80th, 85th St, and Greenwood Ave N	2023	2025	\$4,885,000
Pioneer Square Historic Areaway Restoration, Phase 1	MC-TR-C035	207-209 1st Ave S	2023	2025	\$2,890,175
Seattle Center Monorail	MC-SC-S9403	Seattle Center and Downtown	2022	2025	\$2,807,384

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?

X Yes ___ No

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024
			\$ \$5,998,384	0
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
			\$7,201,548	0
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024
	0	0	0	0

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

No.

Are there financial costs or other impacts of *not* implementing the legislation?

These funds will reduce the amount of City revenues required for local match and may also help address higher than anticipated costs attributable to inflation and a highly competitive contracting environment.

3.a. Appropriations

X This legislation adds, changes, or deletes appropriations.

Fund Name and Number	Dept	Budget Control Level Name/Number*	2023 Appropriation Change	2024 Estimated Appropriation Change
Transportation Fund – 13000	Transportation	Major Maintenance/Replace ment. BC-TR-19001	\$1,195,000	0

Transportation Fund – 13000	Transportation	Mobility Operations BO-TR-17003	\$1,996,000	0
Seattle Center Fund - 11410	Seattle Center	Monorail Rehabilitation BC-SC-S9403	\$2,807,384	0
TOTAL			\$5,998,384	0

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes: None.

3.b. Revenues/Reimbursements

X This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
Transportation Fund – 13000	Transportation	PSRC – Federal Highway Administration	\$845,000	0
Transportation Fund – 13000	Transportation	PSRC – Federal Highway Administration	\$350,000	0
Transportation Fund – 13000	Transportation	USDOT – Office of the Secretary	\$1,996,000	0
Seattle Streetcar Operations - 10800	Transportation	PSRC – Federal Transit Administration	\$1,203,164	0
Seattle Center Fund - 11410	Seattle Center	PSRC – Federal Transit Administration	\$2,807,384	0
TOTAL			\$7,201,548	0

Revenue/Reimbursement Notes: None.

3.c. Positions

 This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?**
No.

b. Is a public hearing required for this legislation?

No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

d. Does this legislation affect a piece of property?

No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

These grant funds were awarded to projects and programs that intend to build traffic management systems to reduce congestion and delay, rehabilitate two vulnerable areaway walls to support existing transportation needs and facilitate future transit service, and improve delivery and logistics operations while providing benefits to elderly and low-income populations and Historically Disadvantaged Communities. SDOT intends to use these grant funds to 1) upgrade and install signals and leading pedestrian intervals to support movement and improve safety for all travel modes to and through north Seattle, 2) rehabilitate two below-grade areaways in Pioneer Square to support the weight of modern traffic, 3) improve curbside access for commercial vehicles and make the city's limited curb space perform more efficiently by testing new technologies to manage our Commercial Vehicle Permit Program, and 4) sustain the Seattle Center Monorail and Seattle Streetcar systems and their existing facilities to continue providing key transportation links. According to Seattle's Race and Social Equity Index, the rates of workers who commute by public transportation are higher than surrounding communities; therefore, improving speed and reliability for public transportation via the 80th/85th ITS Corridors project will help address the mobility gap and improve access to housing, employment opportunities, and other daily destinations. The Pioneer Square Historic Areaway Restoration, Phase 1 project would preserve a historical asset in Pioneer Square and create improved sidewalk conditions supported by the areaway walls, and sidewalks are especially important to Environmental Justice Populations and lower income populations, which are disproportionately people of color. In general, these groups are particularly dependent on sidewalks and curb ramps that are in good condition and transit services that can provide direct access. The affected area of Pioneer Square has a 51% nonwhite population according to 2020 census data; within this area, 29% live in poverty. SDOT also knows that our commercial vehicle permits are primarily used by smaller, local-based businesses with commercial curb needs. Additionally, SDOT analysis shows that urban freight networks disproportionately impact our BIPOC communities located near our industrial and warehouse districts in South Seattle, and that progressive curb policies developed using the Last Mile Freight Curb AccessSMART grant funds will reduce impacts from the delivery site to far upstream of the curb. The Seattle Streetcar and Seattle Center Monorail preservation will support the community's access to public transportation, providing crucial connections between major medical facilities, mixed-income communities, and the King Street and Coleman Dock Mobility Hubs, as well as arts and cultural experiences in the Seattle Center. This grant provides operating support for both Streetcar lines and the Seattle Center Monorail to

avoid potential reductions in service that could lead to erosion of ridership and would disproportionately impact BIPOC and historically disadvantaged communities who utilize Streetcar. By continuing to provide consistent, low-cost transit options to the transportation network, historically underserved communities will have improved mobility to access jobs, educational opportunities and goods and services in other parts of the city which will serve to increase racial equity.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

This legislation is intended to decrease carbon emissions by improving signalized intersections in a corridor with significant freight use and investing in technologies SDOT can deploy to manage commercial vehicles and their access to the curb. This investment is intended to: optimize an east-west corridor to provide faster and more reliable traffic improvements, thereby decreasing congestion and air pollution; improve sidewalk conditions ultimately improving mobility, livability, and air quality; and improve curbside access for commercial vehicles making deliveries to homes and businesses thereby reducing congestion and improving air quality. This legislation directly supports Seattle's Electrification Blueprint goal of *30% of Goods Delivery is Zero Emission* by providing SDOT with funds needed to actively manage and incentivize zero emission commercial vehicle curb access. The legislation also supports Mayor Harrell's One Seattle Transportation and Climate Justice Executive Order, specifically the goal that calls for planning three low-pollution neighborhoods by 2028. Furthermore, the Seattle Streetcar and the Seattle Center Monorail are fully electric systems and decrease transportation carbon emissions. Their preservation will continue to provide a vital link in the City's zero emissions network.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No direct positive or negative impact on resiliency related to this legislation for 80th St and 85th St ITS Corridors and Last Mile Freight Curb Access (SMART grant). The grant funds for the Pioneer Square Historic Areaway Restoration, Phase 1 project will rehabilitate two areaway walls that are currently below-grade, even without continued degradation. This legislation would help prevent an unanticipated collapse of the street wall or sidewalk (most likely in a major earthquake), and provide a sidewalk with a smooth, new surface (replacing sidewalks that are uneven, tilted, and broken in places) to promote increased foot traffic, as well as important first step toward allowing future transit service on 1st Ave S. The Seattle Streetcar's and Seattle Center Monorail's operations also increase Seattle's resiliency to climate change. As Seattle has seen more snow and ice events in the past years, the Seattle Streetcar and Seattle Center Monorail have been able to provide vital transportation service to passengers, where other transportation modes are unable to provide consistent service due to snow and ice on the roads.

- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

This legislation is intended to build the foundation for a modernization of SDOT's Commercial Vehicle Permit Program through the grant funds on the Last Mile Freight Curb Access project. The technology deployed during this program will improve roadway efficiencies, incentivize climate friendly delivery vehicles (such as electric trucks, vans, and e-cargo bikes), and provide SDOT with curb utilization data needed to make data-driven policy decisions. The benefits of this program will also be felt by local businesses operating in Seattle. By improving curb access, freight carriers will spend less time searching for open parking, be less inclined to park illegally and possibly receive a citation, and move more efficiently through the city, all of which will reduce their operating costs.

Seattle City Council

Transportation and Utilities Committee
SDOT Grant Acceptance Ordinance

Our Vision, Mission, Values, & Goals

Seattle is a thriving, equitable community powered by dependable transportation. We're on a mission to deliver a transportation system that provides safe and affordable access to places and opportunities.

Core Values & Goals:

Equity, Safety, Mobility, Sustainability, Livability, and Excellence.

Increased Federal Funding Share

In September 2021, the Seattle Department of Transportation (SDOT) was awarded \$4M in American Rescue Plan Act of 2021 (ARPA) funding from the Federal Transit Administration (FTA) for COVID-19 relief for two projects. These grant agreements are drafted and ready for execution.

In March 2023, SDOT was awarded \$2M in federal funding directly from the U.S. Department of Transportation

In April 2023, the Puget Sound Regional Council (PSRC) reached out to SDOT and offered to award Federal grant awards to projects on PSRC's contingency list. This is a common practice as the PSRC works to commit its full allocation of Federal funds to projects before obligation deadlines expire. SDOT confirmed readiness and was awarded federal funding for preliminary engineering/design on two such projects, totaling \$1.1M.

Five Projects Will Receive Funding

Project Name	Brief Summary	Additional Federal Award	Match amount
Seattle Center Monorail	<ul style="list-style-type: none">• This award funds preventative maintenance and revenue recover funds for monorail operations in response to COVID-19 pandemic impacts• Expected outcomes are to improve, maintain, and sustain the Monorail system and its existing facility to enhance passenger experience	\$2,807,384	\$0
Seattle Streetcar – First Hill Line	<ul style="list-style-type: none">• Activities to be performed include operations activities for the Seattle Streetcar.• The First Hill line of the Seattle Streetcar connects the diverse and vibrant residential neighborhoods and business districts of Capitol Hill, First Hill, Yesler Terrace, Central Area, Chinatown-International District, and Pioneer Square.• Expected outcomes include mitigating operating funding deficits caused by the COVID-19 pandemic. This allows the Seattle Streetcar to continue to provide frequent, reliable, and equitable service to transit riders in the City of Seattle.	\$842,215	\$0

Five Projects Will Receive Funding

Project Name	Brief Summary	Additional Federal Award	Match amount
Seattle Streetcar – South Lake Union Line	<ul style="list-style-type: none">• Supports operations and maintenance activities for the Seattle Streetcar.• The South Lake Union line connects the South Lake Union neighborhood to Seattle's downtown core.• Expected outcomes include mitigating operating funding deficits caused by the COVID-19 pandemic. This allows the Seattle Streetcar to continue to provide frequent, reliable, and equitable service to transit riders in the City of Seattle.	\$360,949	\$0
Last Mile Freight Curb Access	<ul style="list-style-type: none">• Improve curbside access for commercial vehicles and make the City's limited curb space perform more efficiently• Provide SDOT with curb utilization data via a shift to a digital permit and automated pricing• Pilot the project for 18 months in north Downtown with the potential to scale city-wide via a Phase 2 grant if successful	\$1,996,000	\$0

Five Projects Will Receive Funding

Project Name	Brief Summary	Additional Federal Award	Match amount
80th St and 85th St ITS Corridors	<ul style="list-style-type: none">• Upgrade and install signals and leading pedestrian intervals to support movement and improve safety for all travel modes to and through north Seattle• Design and build traffic management systems to reduce congestion and delay on a corridor in north Seattle, improving speed and reliability for public transportation• Address the mobility gap and improve access to housing, employment opportunities, and other daily destinations	\$845,000	\$131,879
Pioneer Square Historic Areaway Restoration, Phase 1	<ul style="list-style-type: none">• Rehabilitate two below-grade areaways in Pioneer Square to support the weight of modern traffic, removing limitations on 1st Ave S• Support existing transportation needs (pedestrians, trucks, and general-purpose travel), and take an important first step toward allowing transit service on 1st Ave S• Create an appealing pedestrian environment that will attract commuters on foot as well as window shopping, sidewalk cafes, and other active uses.• Preserve a historical asset in Pioneer Square	\$350,000	\$54,624

Thank you!



Legislation Text

File #: CB 120613, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE granting 300 Pine Street Condominium Association permission to continue maintaining and operating a pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street; repealing Section 9 of Ordinance 124985; and providing for acceptance of the permit and conditions. WHEREAS, by Ordinance 124985, The City of Seattle granted Macy's West Stores, Inc. permission to continue

maintaining and operating a pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street, for a 10-year term, renewable for two successive 10-year terms; and

WHEREAS, Macy's West Stores, Inc. transferred ownership of the property to 300 Pine Street Condominium Association; and

WHEREAS, the permission authorized by Ordinance 124985 was due for renewal on March 30, 2022; and

WHEREAS, 300 Pine Street Condominium Association submitted an application to the Director of

Transportation to renew the permission granted by Ordinance 124985 for a 20-year term; and

WHEREAS, the obligations of Ordinance 124985 remain in effect after the ordinance term expires until the encroachment is removed, or 300 Pine Street Condominium Association is relieved of the obligations by the Seattle Department of Transportation Director, or the Seattle City Council passes a new ordinance to renew the permission granted; and

WHEREAS, 300 Pine Street Condominium Association continues to be obligated by the public benefit mitigation elements stated in Ordinance 124985 for the duration the pedestrian skybridge remains in the right-of-way; and

WHEREAS, 300 Pine Street Condominium Association has satisfied all the terms of the original authorizing

ordinance and the Director of Transportation recommends that the term permit be renewed for 20 years subject to the terms identified in this ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. **Permission.** Subject to the terms and conditions of this ordinance, the City of Seattle (“City”) grants permission (also referred to in this ordinance as a permit) to 300 Pine Street Condominium Association, and its successors and assigns as approved by the Director of the Seattle Department of Transportation (“Director”) according to Section 14 of this ordinance (the party named above and each such approved successor and assign are referred to as “Permittee”), to continue maintaining and operating an existing pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street. The pedestrian skybridge is adjacent in whole or in part to the properties legally described as:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 in Block 52 of Addition to the Town of Seattle, as laid out by A. A. Denny (commonly known as A. A. Denny's 6th Addition to the City of Seattle), according to the plat recorded in Volume 1 of Plats, on page 99, records of King County, Washington;

EXCEPT the northeasterly 12 feet in width of said Lots 3, 6, 7, 10 and 11 and that portion of said Lot 2 condemned for widening 4th Avenue in King County Superior Court Cause No. 52280 under Ordinance No. 13776 of the City of Seattle;

EXCEPT the southwesterly 12 feet in width of said Lots 1, 4, 5, 8, 9 and 12 taken by the City of Seattle for widening 3rd Avenue;

EXCEPT the southeasterly 7 feet in width of the remaining portion of said Lots 11 and 12 taken by the City of Seattle for widening Pine Street;

EXCEPT that portion of said Lot 1 taken by the City of Seattle for establishing Stewart Street;

AND EXCEPT that portion of said Lot 2 conveyed to the City of Seattle for street purposes by Deed recorded in Volume 1394 of Deeds at page 468, records of said County, more particularly bounded and described as follows:

Beginning at the original northeast corner of said Lot 2 and running:

Thence southwesterly along the northwesterly line thereof, 16.52 feet to the southwesterly margin of 4th Avenue as established by said Ordinance No. 13776 of the City of Seattle and the true point of beginning of the parcel herein described;

Thence southeasterly along said southwesterly margin 5.63 feet;

Thence northwesterly in a straight line 7.51 feet to a point on the northwesterly line of said Lot 2, said point being 3.60 feet southwesterly from the true point of beginning;

Thence northeasterly 3.60 feet to the true point of beginning;

TOGETHER WITH the vacated alley in said Block;

AND TOGETHER WITH that portion of said Lot 2 vacated by Ordinance No 55984 of the City of Seattle.

Section 2. **Term.** The permission granted to the Permittee is for a second and final renewed term of 20 years starting on the effective date of this ordinance and ending at 11:59 p.m. on the last day of the twentieth year. This is the second and final term authorized in Ordinance 124985, subject to the right of the City to require the removal of the pedestrian skybridge or to revise by ordinance any of the terms and conditions of the permission granted by this ordinance. The Permittee shall submit any application for a new permission no later than one year prior to the expiration of the then-existing term. Any application for a new permit for the existing skybridge is subject to the procedures detailed in SDOT Director's Rule 02-2021 or any successor Director's Rules.

Section 3. **Protection of utilities.** The permission granted is subject to the Permittee bearing the expense of any protection, support, or relocation of existing utilities deemed necessary by the owners of the utilities, and the Permittee being responsible for any damage to the utilities due to the construction, repair, reconstruction, maintenance, operation, or removal of the pedestrian skybridge and for any consequential damages that may result from any damage to utilities or interruption in service caused by any of the foregoing.

Section 4. **Removal for public use or for cause.** The permission granted is subject to use of the street right-of-way or other public place (collectively, "public place") by the City and the public for travel, utility purposes, and other public uses or benefits. The City expressly reserves the right to deny renewal, or terminate the permission at any time prior to expiration of the initial term or any renewal term, and require the Permittee to remove the pedestrian skybridge, or any part thereof or installation on the public place, at the Permittee's sole cost and expense in the event that:

A. The City Council determines by ordinance that the space occupied by the pedestrian skybridge is necessary for any public use or benefit or that the pedestrian skybridge interferes with any public use or benefit; or

B. The Director determines that use of the pedestrian skybridge has been abandoned; or

C. The Director determines that any term or condition of this ordinance has been violated, and the violation has not been corrected by the Permittee by the compliance date after a written request by the City to correct the violation (unless a notice to correct is not required due to an immediate threat to the health or safety of the public).

A City Council determination that the space is needed for, or the pedestrian skybridge interferes with, a public use or benefit is conclusive and final without any right of the Permittee to resort to the courts to adjudicate the matter.

Section 5. **Permittee's obligation to remove and restore.** If the permission granted is not renewed at the expiration of a term, or if the permission expires without an application for a new permission being granted, or if the City terminates the permission, then within 90 days after the expiration or termination of the permission, or prior to any earlier date stated in an ordinance or order requiring removal of the pedestrian skybridge, the Permittee shall, at its own expense, remove the pedestrian skybridge and all of the Permittee's equipment and property from the public place and replace and restore all portions of the public place that may have been disturbed for any part of the pedestrian skybridge in as good condition for public use as existed prior to construction of the pedestrian skybridge and in at least as good condition in all respects as the abutting portions of the public place as required by Seattle Department of Transportation (SDOT) right-of-way restoration standards.

Failure to remove the pedestrian skybridge as required by this section is a violation of Chapter 15.90 of the Seattle Municipal Code (SMC) or successor provision; however, applicability of Chapter 15.90 does not eliminate any remedies available to the City under this ordinance or any other authority. If the Permittee does

not timely fulfill its obligations under this section, the City may in its sole discretion remove the pedestrian skybridge and restore the public place at the Permittee's expense and collect such expense in any manner provided by law.

Upon the Permittee's completion of removal and restoration in accordance with this section, or upon the City's completion of the removal and restoration and the Permittee's payment to the City for the City's removal and restoration costs, the Director shall then issue a certification that the Permittee has fulfilled its removal and restoration obligations under this ordinance. Upon prior notice to the Permittee and entry of written findings that it is in the public interest, the Director may, in the Director's sole discretion, conditionally or absolutely excuse the Permittee from compliance with all or any of the Permittee's obligations under this section.

Section 6. **Repair or reconstruction.** The pedestrian skybridge shall remain the exclusive responsibility of the Permittee and the Permittee shall maintain the pedestrian skybridge in good and safe condition for the protection of the public. The Permittee shall not reconstruct or repair the pedestrian skybridge except in strict accordance with plans and specifications approved by the Director. The Director may, in the Director's judgment, order the pedestrian skybridge reconstructed or repaired at the Permittee's cost and expense: because of the deterioration of the pedestrian skybridge; because of the installation, construction, reconstruction, maintenance, operation, or repair of any municipally-owned public utilities; or for any other cause.

Section 7. **Failure to correct unsafe condition.** After written notice to the Permittee and failure of the Permittee to correct an unsafe condition within the time stated in the notice, the Director may order the pedestrian skybridge be removed at the Permittee's expense if the Director deems that the pedestrian skybridge creates a risk of injury to the public. If there is an immediate threat to the health or safety of the public, a notice to correct is not required.

Section 8. **Continuing obligations.** Notwithstanding termination or expiration of the permission granted, or removal of the pedestrian skybridge, the Permittee shall remain bound by all of its obligations under this ordinance until the Director has issued a certification that the Permittee has fulfilled its removal and

restoration obligations under Section 5 of this ordinance, or the Seattle City Council passes a new ordinance to renew the permission granted and/or establish a new term. Notwithstanding the issuance of that certification, the Permittee shall continue to be bound by the obligations in Section 9 of this ordinance and shall remain liable for any unpaid fees assessed under Section 15 and Section 17 of this ordinance.

Section 9. Release, hold harmless, indemnification, and duty to defend. The Permittee, by accepting the terms of this ordinance, releases the City, its officials, officers, employees, and agents from any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description arising out of or by reason of the pedestrian skybridge or this ordinance, including but not limited to claims resulting from injury, damage, or loss to the Permittee or the Permittee's property.

The Permittee agrees to at all times defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents from and against all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the City, that may accrue to, be asserted by, or be suffered by any person or property including, without limitation, damage, death or injury to members of the public or to the Permittee's officers, agents, employees, contractors, invitees, tenants, tenants' invitees, licensees, or successors and assigns, arising out of or by reason of:

A. The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the pedestrian skybridge;

B. Anything that has been done or may at any time be done by the Permittee by reason of this ordinance; or

C. The Permittee failing or refusing to strictly comply with every provision of this ordinance; or arising out of or by reason of the pedestrian skybridge or this ordinance in any other way.

If any suit, action, or claim of the nature described above is filed, instituted, or begun against the City, the Permittee shall upon notice from the City defend the City, with counsel acceptable to the City, at the sole

cost and expense of the Permittee, and if a judgment is rendered against the City in any suit or action, the Permittee shall fully satisfy the judgment within 90 days after the action or suit has been finally determined, if determined adversely to the City. If it is determined by a court of competent jurisdiction that Revised Code of Washington (RCW) 4.24.115 applies to this ordinance, then in the event claims or damages are caused by or result from the concurrent negligence of the City, its agents, contractors, or employees, and the Permittee, its agents, contractors, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Permittee or the Permittee's agents, contractors, or employees.

Section 10. **Insurance.** For as long as the Permittee exercises any permission granted by this ordinance and until the Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 5 of this ordinance, the Permittee shall obtain and maintain in full force and effect, at its own expense, insurance and/or self-insurance that protects the Permittee and the City from claims and risks of loss from perils that can be insured against under commercial general liability (CGL) insurance policies in conjunction with:

A. Construction, reconstruction, modification, operation, maintenance, use, existence, or removal of the pedestrian skybridge, as well as restoration of any disturbed areas of the public place in connection with removal of the pedestrian skybridge;

B. The Permittee's activity upon or the use or occupation of the public place described in Section 1 of this ordinance; and

C. Claims and risks in connection with activities performed by the Permittee by virtue of the permission granted by this ordinance.

Minimum insurance requirements are CGL insurance written on an occurrence form at least as broad as the Insurance Services Office (ISO) CG 00 01. The City requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier pursuant to chapter 48.15 RCW. If coverage is placed with any other insurer or is partially or wholly self-insured, such

insurer(s) or self-insurance is subject to approval by the City's Risk Manager.

Minimum limits of liability shall be \$5,000,000 per Occurrence; \$10,000,000 General Aggregate; \$5,000,000 Products/Completed Operations Aggregate, including Premises Operations; Personal/Advertising Injury; Contractual Liability. Coverage shall include the "City of Seattle, its officers, officials, employees and agents" as additional insureds for primary and non-contributory limits of liability subject to a Separation of Insureds clause.

Within 60 days after the effective date of this ordinance, the Permittee shall provide to the City, or cause to be provided, certification of insurance coverage including an actual copy of the blanket or designated additional insured policy provision per the ISO CG 20 12 endorsement or equivalent. The insurance coverage certification shall be delivered or sent to the Director or to SDOT at an address as the Director may specify in writing from time to time. The Permittee shall provide a certified complete copy of the insurance policy to the City promptly upon request.

If the Permittee is self-insured, a letter of certification from the Corporate Risk Manager may be submitted in lieu of the insurance coverage certification required by this ordinance, if approved in writing by the City's Risk Manager. The letter of certification must provide all information required by the City's Risk Manager and document, to the satisfaction of the City's Risk Manager, that self-insurance equivalent to the insurance requirements of this ordinance is in force. After a self-insurance certification is approved, the City may from time to time subsequently require updated or additional information. The approved self-insured Permittee must provide 30 days' prior notice of any cancellation or material adverse financial condition of its self-insurance program. The City may at any time revoke approval of self-insurance and require the Permittee to obtain and maintain insurance as specified in this ordinance.

In the event that the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the insurance required under this section until the Director has approved the assignment or transfer pursuant to Section 14 of this ordinance.

Section 11. **Contractor insurance.** The Permittee shall contractually require that any and all of its contractors performing work on any premises contemplated by this permit name the “City of Seattle, its officers, officials, employees and agents” as additional insureds for primary and non-contributory limits of liability on all CGL, Automobile and Pollution liability insurance and/or self-insurance. The Permittee shall also include in all contract documents with its contractors a third-party beneficiary provision extending to the City construction indemnities and warranties granted to the Permittee.

Section 12. **Performance bond.** Within 60 days after the effective date of this ordinance, the Permittee shall deliver to the Director for filing with the City Clerk a sufficient bond executed by a surety company authorized and qualified to do business in the State of Washington, in the amount of \$120,000 and conditioned with a requirement that the Permittee shall comply with every provision of this ordinance and with every order the Director issues under this ordinance. The Permittee shall ensure that the bond remains in effect until the Director has issued a certification that the Permittee has fulfilled its removal and restoration obligations under Section 5 of this ordinance. An irrevocable letter of credit approved by the Director in consultation with the City Attorney’s Office may be substituted for the bond. In the event that the Permittee assigns or transfers the permission granted by this ordinance, the Permittee shall maintain in effect the bond or letter of credit required under this section until the Director has approved the assignment or transfer pursuant to Section 14 of this ordinance.

Section 13. **Adjustment of insurance and bond requirements.** The Director may adjust minimum liability insurance levels and surety bond requirements during the term of this permission. If the Director determines that an adjustment is necessary to fully protect the interests of the City, the Director shall notify the Permittee of the new requirements in writing. The Permittee shall, within 60 days of the date of the notice, provide proof of the adjusted insurance and surety bond levels to the Director.

Section 14. **Consent for and conditions of assignment or transfer.** When the Property is transferred, the permission granted by this ordinance shall be assignable and transferable by operation of law pursuant to

Section 20 of this ordinance. Continued occupation of the right-of-way constitutes the Permittee's acceptance of the terms of this ordinance, and the new owner shall be conferred with the rights and obligations of the Permittee by this ordinance. Other than a transfer to a new owner of the Property, the Permittee shall not transfer, assign, mortgage, pledge or encumber the same without the Director's consent, which the Director shall not unreasonably refuse. The Director may approve assignment or transfer of the permission granted by this ordinance to a successor entity only if the successor or assignee has provided, at the time of the assignment or transfer, the bond and certification of insurance coverage required under this ordinance; and has paid any fees due under Section 15 and Section 17 of this ordinance. Upon the Director's approval of an assignment or transfer, the rights and obligations conferred on the Permittee by this ordinance shall be conferred on the successors and assigns. Any person or entity seeking approval for an assignment or transfer of the permission granted by this ordinance shall provide the Director with a description of the current and anticipated use of the pedestrian skybridge.

Section 15. **Inspection fees.** The Permittee shall, as provided by SMC Chapter 15.76 or successor provision, pay the City the amounts charged by the City to inspect the pedestrian skybridge during construction, reconstruction, repair, annual safety inspections, and at other times deemed necessary by the City. An inspection or approval of the pedestrian skybridge by the City shall not be construed as a representation, warranty, or assurance to the Permittee or any other person as to the safety, soundness, or condition of the pedestrian skybridge. Any failure by the City to require correction of any defect or condition shall not in any way limit the responsibility or liability of the Permittee. The Permittee shall pay the City the amounts charged by the City to review the inspection reports required by Section 16 of this ordinance.

Section 16. **Inspection reports.** The Permittee shall submit to the Director, or to SDOT at an address specified by the Director, an inspection report that:

- A. Describes the physical dimensions and condition of all load-bearing elements;
- B. Describes any damages or possible repairs to any element of the pedestrian skybridge;

C. Prioritizes all repairs and establishes a timeframe for making repairs; and

D. Is stamped by a professional structural engineer licensed in the State of Washington.

A report meeting the foregoing requirements shall be submitted within 60 days after the effective date of this ordinance; subsequent reports shall be submitted every two years, provided that, in the event of a natural disaster or other event that may have damaged the pedestrian skybridge, the Director may require that additional reports be submitted by a date established by the Director. The Permittee has the duty of inspecting and maintaining the pedestrian skybridge. The responsibility to submit structural inspection reports periodically or as required by the Director does not waive or alter any of the Permittee's other obligations under this ordinance. The receipt of any reports by the Director shall not create any duties on the part of the Director. Any failure by the Director to require a report, or to require action after receipt of any report, shall not waive or limit the obligations of the Permittee.

Section 17. **Annual fee.** Beginning on the effective date of this ordinance the Permittee shall pay an Issuance Fee, and annually thereafter, the Permittee shall promptly pay to the City, upon statements or invoices issued by the Director, an Annual Renewal Fee, and an Annual Use and Occupation fee of \$62,015.63, or as adjusted annually thereafter, for the privileges granted by this ordinance.

Adjustments to the Annual Use and Occupation Fee shall be made in accordance with a term permit fee schedule adopted by the City Council and may be made every year. In the absence of a schedule, the Director may only increase or decrease the previous year's fee to reflect any inflationary changes so as to charge the fee in constant dollar terms. This adjustment will be calculated by adjusting the previous year's fee by the percentage change between the two most recent year-end values available for the Consumer Price Index for the Seattle-Tacoma-Bellevue Area, All Urban Consumers, All Products, Not Seasonally Adjusted. Permittee shall pay any other applicable fees, including fees for reviewing applications to renew the permit after expiration of the first term. All payments shall be made to the City Finance Director for credit to the Transportation Fund.

Section 18. **Compliance with other laws.** The Permittee shall construct, maintain, and operate the

pedestrian skybridge in compliance with all applicable federal, state, County, and City laws and regulations. Without limitation, in all matters pertaining to the pedestrian skybridge, the Permittee shall comply with the City's laws prohibiting discrimination in employment and contracting including Seattle's Fair Employment Practices Ordinance, Chapter 14.04, and Fair Contracting Practices code, Chapter 14.10 (or successor provisions).

Section 19. **Acceptance of terms and conditions.** The Permittee shall provide evidence of insurance coverage required by Section 10 of this ordinance, the bond as required by Section 12 of this ordinance, and the covenant agreement required by Section 20 of this ordinance within 60 days after the effective date of this ordinance. Continued occupation of the right-of-way constitutes the Permittee's acceptance of the terms of this ordinance.

Section 20. **Obligations run with the Property.** The obligations and conditions imposed on the Permittee by and through this ordinance are covenants that run with the land and bind subsequent owners of the property adjacent to the pedestrian skybridge and legally described in Section 1 of this ordinance (the "Property"), regardless of whether the Director has approved assignment or transfer of the permission granted herein to such subsequent owner(s). At the request of the Director, the Permittee shall provide to the Director a current title report showing the identity of all owner(s) of the Property and all encumbrances on the Property. The Permittee shall, within 60 days of the effective date of this ordinance, and prior to conveying any interest in the Property, deliver to the Director upon a form to be supplied by the Director, a covenant agreement imposing the obligations and conditions set forth in this ordinance, signed and acknowledged by the Permittee and any other owner(s) of the Property and recorded with the King County Recorder's Office. The Director shall file the recorded covenant agreement with the City Clerk. The covenant agreement shall reference this ordinance by its ordinance number. At the request of the Director, Permittee shall cause encumbrances on the Property to be subordinated to the covenant agreement.

Section 21. **Public benefit mitigation.** The Permittee shall continue to maintain and operate the public

benefits stated in Ordinance 124985, Section 22, including:

1. Pedestrian lighting under the building canopy along 3rd Avenue, Pine Street, 4th Avenue, and Stewart Street.
2. Permittee shall continue to activate use of the store front on the corner of 3rd Avenue and Stewart Street, north of the loading dock.

Section 22. **Section titles.** Section titles are for convenient reference only and do not modify or limit the text of a section.

Section 23. **Repeal of Section 9 of Ordinance 124985.** Section 9 of Ordinance 124985 is repealed.

Section 24. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact	CBO Contact
Seattle Department of Transportation	Amy Gray	Christie Parker

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE granting 300 Pine Street Condominium Association permission to continue maintaining and operating a pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street; repealing Section 9 of Ordinance 124985; and providing for acceptance of the permit and conditions.

Summary and Background of the Legislation: This legislation allows 300 Pine Street Condominium Association to continue maintaining and operating the existing pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street. The pedestrian skybridge permit is for a period of 20 years, commencing on the effective date of the ordinance. The legislation specifies the conditions under which permission is granted.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☒ Yes ☐ No

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
			\$62,015.63	TBD
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
No.

Are there financial costs or other impacts of *not* implementing the legislation?
No.

3.a. Appropriations

☐ This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

☒ This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
Transportation Fund (13000)	SDOT	Annual Fee	\$62,015.63	TBD
TOTAL			\$62,015.63	TBD

Is this change one-time or ongoing?
Ongoing.

Revenue/Reimbursement Notes:

The 2023 fee is based on the 2023 assessed land value by King County.

3.c. Positions

☐ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- Does this legislation affect any departments besides the originating department?
No.
- Is a public hearing required for this legislation?
No.
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No.

d. Does this legislation affect a piece of property?

Yes, the 300 Pine Street Condominium Association property legally described in Section 1 of the Council Bill.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

This legislation does not have any implications for the principles of the Race and Social Justice Initiative and does not impact vulnerable or historically disadvantaged communities.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

N/A

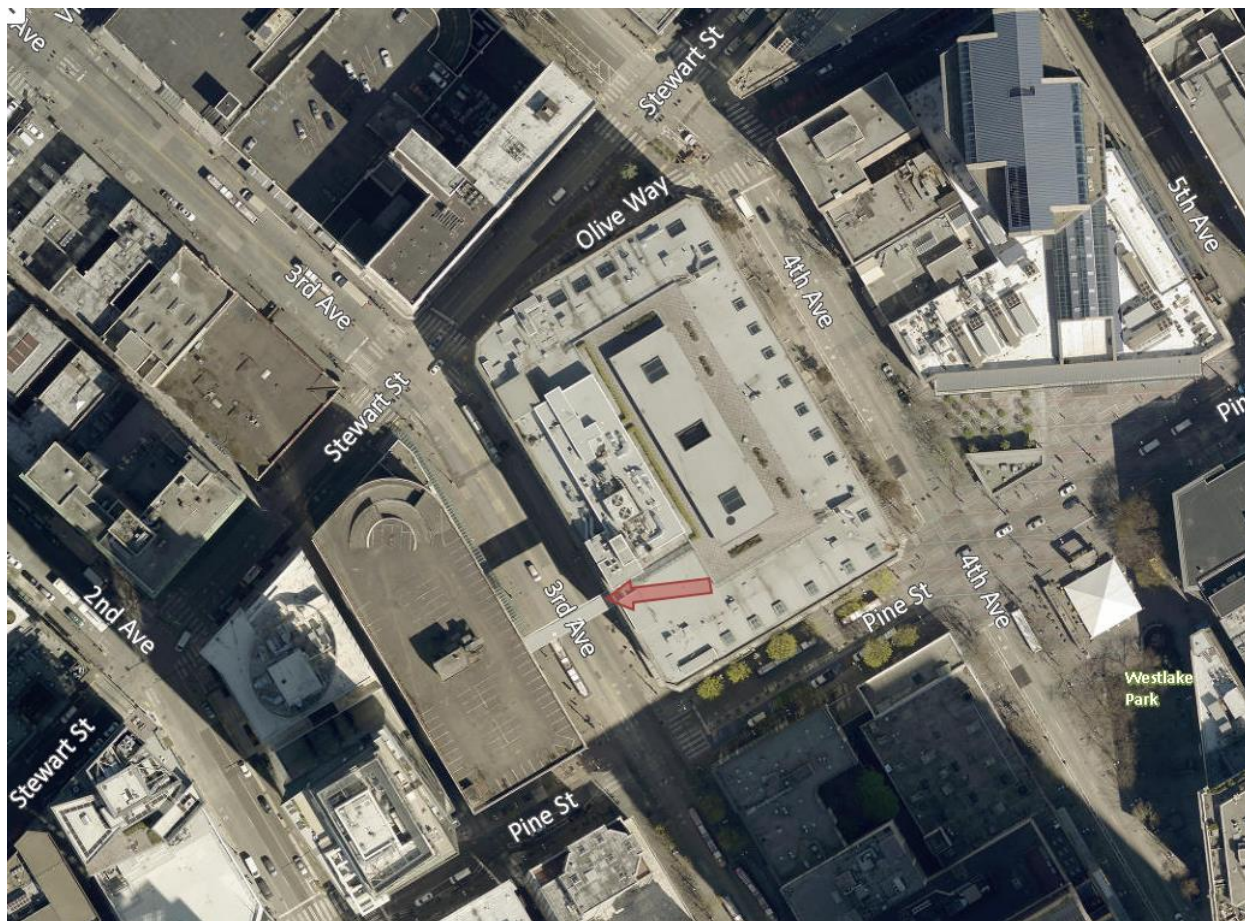
Summary Attachments:

Summary Attachment A – 300 Pine St Skybridge Area Map

Summary Attachment B – 300 Pine St Skybridge Images

Summary Attachment C – 300 Pine St Skybridge Annual Fee Assessment

300 Pine St Skybridge Area Map



Map is for informational purposes only and is not intended to modify or supplement the legal description(s) in the Ordinance.

300 Pine St Skybridge Images



Exterior looking south



Interior looking east

Annual Fee Assessment Summary

STREET USE ANNUAL FEE ASSESSMENT

Date: 12/5/2022

<p><u>Summary:</u> 2023 Land Value: \$875/SF Permit Fee: \$62,015.63</p>

I. Property Description:

Existing pedestrian skybridge over and across 3rd Avenue, between Pine Street and Stewart Street. The pedestrian skybridge connects the buildings located at 300 Pine St and 1601 3rd Ave. The use area is **1,260 square feet**.

Applicant:

300 Pine St Condominium Association

Abutting Parcels, Property Size, Assessed Value:

2023

Parcel 1977200980; Lot size: 31,262 square feet

Tax year 2023 Appraised Land Value: \$27,354,200 (\$875/square foot)

Parcel 8634230000; Lot size: 81,176 square feet

Tax year 2023 Appraised Land Value: \$71,028,900 (\$875/square foot)

Average 2023 Tax Assessed Land Value \$875/SF

II. Annual Fee Assessment:

The 2023 permit fee is calculated as follows:

$(\$875/\text{SF}) \times (1,260 \text{ SF}) \times (75\%) \times (7.5\%) = \$62,015.63$ where 75% is the degree of alienation for semi-public pedestrian skybridge; and 7.5% is the annual rate of return.

Fee methodology authorized under Ordinance 123485, as amended by Ordinances 123585, 123907, and 124532.

A low-angle, upward-looking photograph of a multi-story building with a light-colored stone facade and many windows. A modern glass-enclosed skybridge extends from the left side of the frame towards the building. The sky is clear and blue. A semi-transparent blue banner is overlaid across the middle of the image, containing white text.

300 Pine St Skybridge Renewal

Transportation & Seattle Public Utilities Committee

Presentation overview



- 300 Pine St Condominium Association is seeking to renew a permit for an existing pedestrian skybridge over and across 3rd Ave, between Pine St and Stewart St
- The skybridge provides a pedestrian connection between the parking garage at 1601 3rd Ave and 300 Pine St
- SDOT recommends approval of the term permit renewal

Term permit process – permit renewals

Ordinance Passage:

- Passage of the ordinance renews the permit for 20 years
- Details the terms and conditions of the permit, including:
 - a) Annual fee
 - b) Maintenance obligations
 - c) Indemnification, insurance, and bond requirements.

Skybridge images



Looking east to the building at 300 Pine St



Looking west to the parking garage at 1601 3rd Ave

Project neighborhood - Downtown



Requested action

- SDOT is seeking Council approval of this Council Bill for the existing pedestrian skybridge at 300 Pine St
- If the ordinance is approved, this permit will be renewed through 2043

Questions?

amy.gray@seattle.gov | (206) 386-4638

www.seattle.gov/transportation



July 11, 2023

MEMORANDUM

To: Transportation and Seattle Public Utilities Committee
From: Lish Whitson, Analyst
Subject: Council Bill 120613 – 300 Pine Street skybridge

On July 18, 2023, the Transportation and Seattle Public Utilities Committee (Committee) will discuss and possibly vote on [Council Bill \(CB\) 120613](#), which would renew and extend approval to maintain a skybridge across 3rd Avenue between Pine Street and Stewart Street in the Downtown retail core. The skybridge connects the historic [Bon Marché](#) building at 300 Pine Street with a parking garage across the street.

This memorandum describes the skybridge permit renewal process and the 300 Pine Street skybridge.

Skybridge Permit Renewals

Property owners who seek to build a new pedestrian bridge that would encroach over and above a public place¹ must seek skybridge permit approval from the City Council under Seattle Municipal Code (SMC) [Chapter 15.64](#). The code allows for renewals of a skybridge permit only if permitted in the original ordinance. [SMC 15.64.083](#) provides authority to the Director of the Seattle Department of Transportation (SDOT) to recommend amendments at term renewal. Amendments may only be made if consistent with [SMC 15.64.090](#) and are made via ordinance.

[SMC 15.64.090](#) provides the terms and conditions that may be included in a term permit ordinance. These include, but are not limited to:

- the term of years that permission is granted and renewal periods, if any;
- provision for regular inspection of and procedures for closure or removal of the skybridge;
- requirements for performance bonds, public liability insurance, indemnification, conformance with other laws, and annual fees;
- prohibition against assignment without City consent;
- a requirement for execution and recording of a covenant ensuring that obligations and conditions imposed on the permittee run with the land, where applicable;
- public benefit mitigation elements; and
- timely acceptance of permission.

¹ A “public place” is defined as: “public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles, and plazas that are not privately owned.” ([SMC 16.02.046](#))

300 Pine Street Skybridge

The skybridge that joins the historic Bon Marché/300 Pine Street building to the parking garage on the west side of 3rd Avenue was originally permitted in 1960 under [Ordinance 88991](#). The Bon Marché building was originally built in 1929, as the first full-block retail development in Seattle. The parking garage was built in the late 1950s in reaction to the suburbanization of retail businesses. The skybridge provided direct access from the garage to the Bon Marché department store, later Macy's. Currently, the skybridge provides access between the parking garage and the offices located in the former department store building, as well as ground floor retail businesses.

Approval of the skybridge has continued, and was most recently granted to Macy's West Stores, Inc. under [Ordinance 124985](#), in 2016. That approval was for a term ending in 2023, which is renewable for two additional ten-year terms, ending in 2043. Instead, 300 Pine Street Condominium Association, the current owners of the building and operators of the skybridge have asked for a single 20-year renewal, which would provide for a single renewal during the 30-year period covered by Ordinance 124985. Consequently, approval of CB 120613 would allow the current owner of the Bon Marché building, 300 Pine Street Condominium Association, permission to maintain the skybridge over 3rd Avenue for 20 years, ending in 2043.

Next Steps

If the Committee recommends approval of CB 120613 at its July 18 meeting, it could be considered by the City Council as early as July 25.

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst



Legislation Text

File #: CB 120600, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE establishing additional uses for automated traffic safety cameras and designating restricted racing zones; amending Section 11.50.570 of the Seattle Municipal Code; and adding a new Section 11.50.580 to the Seattle Municipal Code.

WHEREAS, automated cameras are a tool to enforce traffic safety that does not rely on in-person traffic stops; and

WHEREAS, following State authorization, the City of Seattle began use of automated cameras for red light enforcement in 2006, school zones in 2012, West Seattle Bridge closure restrictions in 2020 (since removed), and block-the-box and transit-only lane enforcement in 2022; and

WHEREAS, the Council approved funding in the 2023 Adopted Budget for doubling the school zone camera program and requested a detailed implementation plan and evaluation of traffic safety camera programs from the Seattle Police Department (SPD) and Seattle Department of Transportation (SDOT) through a Statement of Legislative Intent (SLI-SDOT-304-A-001-2023 as adopted in Resolution 32087) due to Council by August 1, 2023; and

WHEREAS, SLI-SDOT-304-A-001-2023 specifically requests: (1) a detailed implementation plan for the doubling of the School Zone Camera that includes a schedule of school zone camera deployment by location, documentation of the race and social justice analysis used to inform the new school zone camera deployments, the anticipated budget adjustments to program administration and school safety programs based on the deployment schedule, and any anticipated legislation necessary to implement the camera deployment; and (2), an evaluation of the costs and benefits for expanding other automated

traffic safety camera programs, including red light cameras, block-the-box/transit-lane enforcement cameras, speed zone cameras, and other traffic camera authority provided under state law, including a recommendation and proposed schedule for deployment of additional automated traffic safety cameras and programs; and

WHEREAS, in 2022, the State Legislature passed Engrossed Substitute House Bill (ESSB) 5974 amending Revised Code of Washington (RCW) 46.63.170, authorizing additional uses of automated cameras in specific zones; and

WHEREAS, RCW 46.63.170(1)(d)(i)(C) authorizes the use of automated cameras to detect speed violations in locations designated by local ordinance as a zone subject to specified restrictions and penalties on racing and race attendance; and

WHEREAS, RCW 46.63.170(1)(d)(ii) requires an equity analysis that evaluates livability, accessibility, economics, education, and environmental health in determining where to locate an automated camera; and

WHEREAS, the Council anticipates that SPD and SDOT will present an implementation plan to make use of this authorization for consideration as part of a future budget proposal, including progress on completing the required equity analysis of proposed camera locations and in consideration of Vision Zero safety goals; and

WHEREAS, the Council anticipates that SPD and SDOT will work with the Office of Civil Rights and SDOT's Transportation Equity Workgroup in the development of camera enforcement implementation plans to address issues such as mitigating the disproportionate impacts of fines and focus on highest-risk behavior; creating an equitable citywide distribution of cameras; developing a policy to prioritize physical street safety improvements before implementing automated ticketing; and addressing privacy concerns by documenting, publicization and strengthening protections around the use of images and data collected by automated enforcement cameras; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 11.50.570 of the Seattle Municipal Code, last amended by Ordinance 126183, is amended as follows:

11.50.570 Automated traffic safety cameras

A. Automated traffic safety cameras may be used to detect one or more of the following: stoplight violations, railroad crossing ~~((or))~~ violations, school speed zone violations, maximum speed limit violations consistent with RCW 46.63.170(1)(d)(i), or violations included in subsection 11.50.570.H for the duration of the pilot program authorized under subsection 11.50.570.H. Except as provided in subsection 11.50.570.H, use of automated traffic safety cameras is restricted to the following locations only:

1. Intersections of two or more arterials with traffic control signals that have yellow change interval durations in accordance with Section 11.50.130, which interval may not be reduced after placement of the cameras;

2. Railroad crossings; ~~((and))~~

3. School speed zones~~((;))~~;

4. Walk areas as defined in RCW 28A.160.160;

5. Public park speed zones;

6. Hospital speed zones; and

7. Additional speed detection zones that meet the criteria of RCW 46.63.170(1)(d)(i), including restricted racing zones as identified in Section 11.50.580.

B. Automated traffic safety cameras may be used to detect other violations as authorized by and subject to the restrictions imposed by the Washington State Legislature.

C. Before adding additional automated traffic safety cameras or relocating any existing camera, the City Council must prepare an analysis of the locations within the City where automated traffic safety cameras are proposed to be located. Beginning June 7, 2013, an annual report must be posted on the City's website of the

number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information deemed appropriate. For automated traffic safety cameras authorized by RCW 46.63.170(1)(d)(i), the City must complete an equity analysis that evaluates livability, accessibility, economics, education, and environmental health, and shall consider the outcome of that analysis when identifying where to locate an automated traffic safety camera.

* * *

Section 2. A new Section 11.50.580 is added to the Seattle Municipal Code as follows:

11.50.580 Designation of restricted racing zones

Pursuant to RCW 43.63.170(1)(d)(i)(C), the following streets are designated as restricted racing and race attendance zones subject to automated camera enforcement to detect maximum speed limit violations:

- A. Alki Avenue SW between 63rd Ave SW and Harbor Avenue SW.
- B. Harbor Avenue SW between Alki Avenue SW and SW Spokane St.
- C. West Marginal Way SW between SW Spokane St and 2nd Ave SW.
- D. Sand Point Way NE between 38th Ave NE and NE 95th St.
- E. NE 65th St between Sand Point Way NE and Magnuson Park.
- F. Roadways inside Magnuson Park including, but not limited to, NE 65th St and Lake Shore Dr NE.

Section 3. The City shall not install new automated traffic safety cameras under the authority of Seattle Municipal Code subsections 11.50.570.A.4, 11.50.570.A.5, 11.50.570.A.6 or 11.50.570.A.7 until the Executive has submitted to the City Council, and filed with the City Clerk, a response to Statement of Legislative Intent SDOT-304-A-001-2023 (Resolution 32087).

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by

Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by
me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Anne Frantilla, Interim City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Legislative	Chow, x4-4652	N/A

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title:

AN ORDINANCE establishing additional uses for automated traffic safety cameras and designating restricted racing zones; amending Section 11.50.570 of the Seattle Municipal Code; and adding a new Section 11.50.580 to the Seattle Municipal Code.

Summary and Background of the Legislation:

As authorized by recent changes in Washington State Law (RCW 46.63.170), this legislation authorizes the expansion of camera enforcement to detect speed violations in walk areas, public park zones, hospital zones, and restricted racing zones. This legislation also designates the specific racing zones where camera enforcement is authorized, including:

- Alki Avenue SW between 63rd Ave SW and Harbor Avenue SW.
- Harbor Avenue SW between Alki Avenue SW and SW Spokane St.
- West Marginal Way SW between SW Spokane St and 2nd Ave SW.
- Sand Point Way NE between 38th Ave NE and NE 95th St.
- NE 65th St between Sand Point Way NE and Magnuson Park.
- Roadways inside Magnuson Park including, but not limited to, NE 65th St and Lake Shore Dr NW.

State law (RCW 46.63.170(1)(d)(ii)) requires an equity analysis that evaluates livability, accessibility, economics, education, and environmental health when identifying camera locations using this new authority.

This legislation does not provide for the implementation of additional camera enforcement. This legislation anticipates that the Executive will propose implementation measures as part of a future budget proposal, including progress on the required equity analysis. The legislation prohibits the installation of new cameras under the new authority until the Executive has submitted a response to Council's Statement of Legislative Intent on school zone camera implementation and evaluation of automated traffic safety camera programs (SLI-SDOT-304-A-001-2023).

The financial and other implications of implementing additional camera enforcement will be dependent on the specific implementation measures proposed. Camera systems are provided through third-party vendors and managed by the Seattle Police Department (SPD). SPD officers are required to review the detected infractions and issue citations. The camera locations and installations are coordinated with the Seattle Department of Transportation (SDOT).

Following State authorization, Seattle began use of camera enforcement at [red lights](#) in 2006, [school zones](#) in 2012, and [block-the-box intersection](#) and [transit-only lane](#) enforcement in 2022. Camera enforcement was also used to enforce traffic restrictions on the Spokane Street Swing Bridge during the 2020-2022 closure of the West Seattle Bridge. The 2023-2024 Adopted Budget also provided funding for SPD to develop a plan to double the number of cameras deployed in school zones from 35 to 70 cameras.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☐ Yes ☒ No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

This legislation anticipates that the Executive will propose implementation measures as part of a future budget proposal. The financial impacts will be dependent on the specific measures proposed.

Pursuant to RCW 46.63.170(1)(l), 50 percent of the speeding ticket fines in walk areas, public park zones, hospital zones, and restricted racing zones will be deposited in the Washington State Cooper Jones active transportation safety account. This State requirement does not apply to camera enforcement at stoplights, school crossings, or school speed zone violations.

Are there financial costs or other impacts of *not* implementing the legislation?

No costs or impacts identified. The City would not be able to make use of the new State authority provided in RCW 46.63.170.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
Implementing this legislation will impact SPD, SDOT, and Finance and Administrative Services (contracting).
- b. **Is a public hearing required for this legislation?**
No.
- c. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

d. Does this legislation affect a piece of property?

No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

Increased use of automated traffic cameras may reduce reliance on traffic stops and subsequent police officer interactions for traffic enforcement. This may reduce the potential for racial profiling. Race and Social Justice Initiative implications will need to be considered in developing an implementation plan to ensure that installation of cameras does not disproportionately impact vulnerable or disadvantaged communities. The Office of Civil Rights and SDOT's Transportation Equity Workgroup could be engaged in the development of camera enforcement implementation plans.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No material change to carbon emissions anticipated.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No material impact to climate resiliency anticipated.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

Summary Attachments (if any):

None.



SEATTLE CITY COUNCIL
CENTRAL STAFF

Automated Camera Enforcement and Restricted Racing Zones – CB 120600

CALVIN CHOW, CENTRAL STAFF

TRANSPORTATION AND SEATTLE PUBLIC UTILITIES COMMITTEE
JUNE 20, 2023

In brief...

- Washington State expanded authority for using automated traffic cameras to enforce maximum speed limits, including areas impacted by street racing.
- This proposed legislation would:
 - Incorporate the new State provisions into Seattle Municipal Code.
 - Designate the restricted racing zones where camera enforcement could be applied.
- This proposed legislation does **not**:
 - Provide for implementation of the new authority (budget, installations).

Automated Camera Enforcement in Seattle

- Seattle has used automated traffic safety cameras for:
 - Red Light enforcement (since 2006).
 - School Zone enforcement (since 2012).
 - West Seattle Bridge closure restrictions (2020, since removed).
 - Block-the-Box and Transit-Only Lane enforcement (since 2022).
- In the 2023 Adopted Budget, Council provided funding for SPD and SDOT to develop a plan to double the number of School Zone cameras.
- In an accompanying SLI (SDOT-304-A-001, due August 1, 2023), Council requested:
 - An implementation plan for School Zone cameras.
 - An evaluation of expanding other camera enforcement programs.

New State Authority

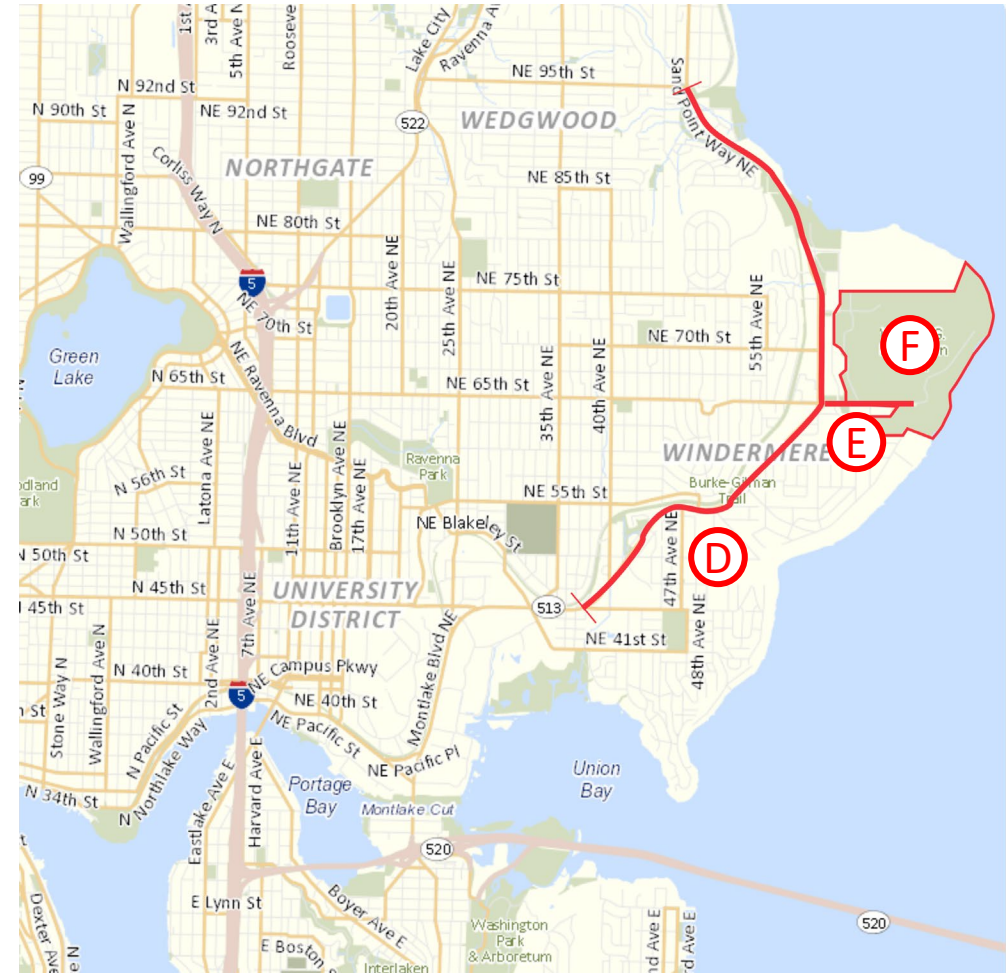
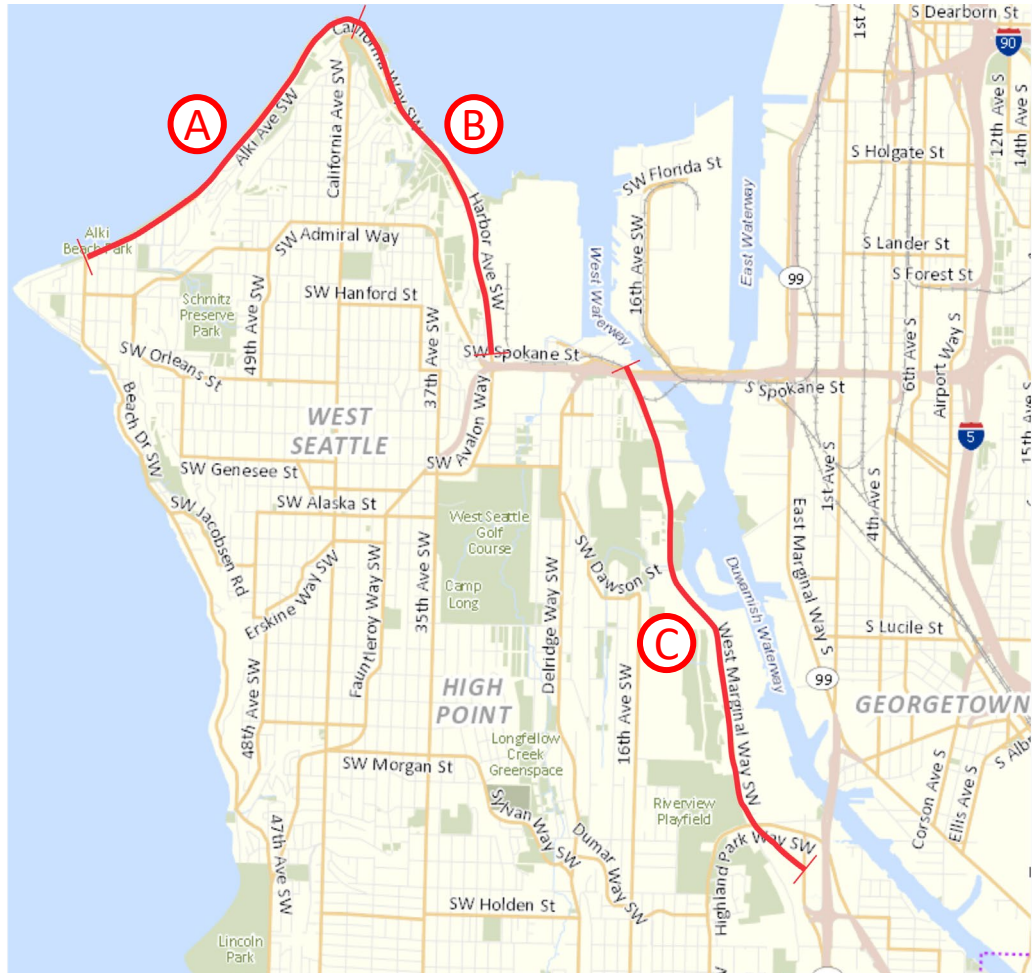
In 2022, Washington State expanded use of automated cameras to cover speed limit violations in:

- Walk areas (defined in RCW 28A.160.160).
- Public park speed zones.
- Hospital speed zones.
- Other priority road safety locations, ***including restricted racing zones designated by local ordinance.***
 - State law requires an equity analysis that evaluates livability, accessibility, economics, education, and environmental health in determining specific camera locations.

CB 120600

- Amends SMC 11.50.570 to include the new State camera authority.
- Adds a new SMC 11.50.580, designating restricted racing zones:
 - A. Alki Avenue SW between 63rd Ave SW and Harbor Avenue SW.
 - B. Harbor Avenue SW between Alki Avenue SW and SW Spokane St.
 - C. West Marginal Way SW between SW Spokane St and 2nd Ave SW.
 - D. Sand Point Way NE between 38th Ave NE and NE 95th St.
 - E. NE 65th St between Sand Point Way NE and Magnuson Park.
 - F. Roadways inside Magnuson Park including, but not limited to, NE 65th St and Lake Shore Dr NE.
- Prohibits the installation of new cameras under this authority until the Executive has responded to Council's 2023 SLI (SDOT-304-A-001).
- Implementation will be dependent on future budget authorization and the State-required equity analysis.

Proposed Restricted Racing Zones



Questions?

Amendment 1 to CB 120600 - Automated Camera Enforcement and Restricted Racing Zones

Sponsor: Councilmember Pedersen

Technical Edits to Code Language

Effect: This amendment would make technical edits to code language for consistency with SMC 11.50.570, as previously adopted in Ordinance 126183. This amendment does not materially impact the policy direction of the proposed legislation.

Substitute Section 1 of CB 120600 with text as follows:

Section 1. Section 11.50.570 of the Seattle Municipal Code, last amended by Ordinance 126183, is amended as follows:

11.50.570 Automated traffic safety cameras

A. Automated traffic safety cameras may be used to detect one ~~((+))~~ or more of the following: stoplight, railroad crossing or school speed zone violations, ~~((+))~~ violations included in subsection 11.50.570.H for the duration of the pilot program authorized under subsection 11.50.570.H, maximum speed limit violations in school walk, park, and hospital zones as permitted by state law, or, consistent with RCW 46.63.170(1)(d)(i), on streets that are either designated as a priority location in a road safety plan submitted to the state, show a significantly higher rate of collisions than the City average over a period of at least three years prior to installation and other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speeds, or is a street designated by ordinance as a restricted racing zone. Except as provided in subsection 11.50.570.H, use of automated traffic safety cameras is restricted to the following locations only:

1. Intersections of two (~~((2))~~) or more arterials with traffic control signals that have yellow change interval durations in accordance with Section 11.50.130, which interval may not be reduced after placement of the cameras;

2. Railroad crossings; (~~and~~)

3. School speed zones (~~(-)~~) ;

4. School walk areas as defined in RCW 28A.160.160;

5. Public park speed zones;

6. Hospital speed zones; and

7. Additional speed detection locations that meet any of the criteria in RCW 46.63.170(1)(d).

* * *

C. Before adding additional automated traffic safety cameras or relocating any existing camera, the City Council must prepare an analysis of the locations within the City where automated traffic safety cameras are proposed to be located. Beginning June 7, 2013, an annual report must be posted on the City's website of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information deemed appropriate. For automated traffic safety cameras authorized by RCW 46.63.170(1)(d)(i), the City must complete an equity analysis that evaluates livability, accessibility, economics, education, and environmental health, and shall consider the outcome of that analysis when identifying where to locate an automated traffic safety camera.

* * *

Amendment 2 to CB 120600 - Automated Camera Enforcement and Restricted Racing Zones

Sponsor: Councilmember Pedersen

Designating additional Restricted Racing Zones

Effect: This amendment would designate additional restricted racing zones where automated camera enforcement could be used to enforce speed limits.

Amend Section 2 of CB 120600 as follows:

Section 2. A new Section 11.50.580 is added to the Seattle Municipal Code as follows:

11.50.580 Designation of restricted racing zones

Pursuant to RCW 43.63.170(1)(d)(i)(C), the following streets are designated as restricted racing and race attendance zones subject to automated camera enforcement to detect maximum speed limit violations:

- A. Alki Ave((~~nue~~)) SW between 63rd Ave SW and Harbor Ave((~~nue~~)) SW.
- B. Harbor Ave((~~nue~~)) SW between Alki Ave((~~nue~~)) SW and SW Spokane St.
- C. West Marginal Way SW between SW Spokane St and 2nd Ave SW.
- D. Sand Point Way NE between 38th Ave NE and NE 95th St.
- E. NE 65th St between Sand Point Way NE and Magnuson Park.
- F. Roadways inside Magnuson Park including, but not limited to, NE 65th St and Lake Shore Dr NE.

G. Seaview Ave NW between Golden Gardens Park and 34th Ave NW.

H. 3rd Ave NW between Leary Way NW and N 145th St.

I. Martin Luther King Jr Way S between S Massachusetts St and S Henderson St.

J. Rainier Ave S from S Jackson St south to the city limits.



Legislation Text

File #: Inf 2289, **Version:** 1

Race and Social Justice 2022-2023 : Update to the Seattle City Council

How we practice Equity at SDOT

Our Vision, Mission, Values, & Goals

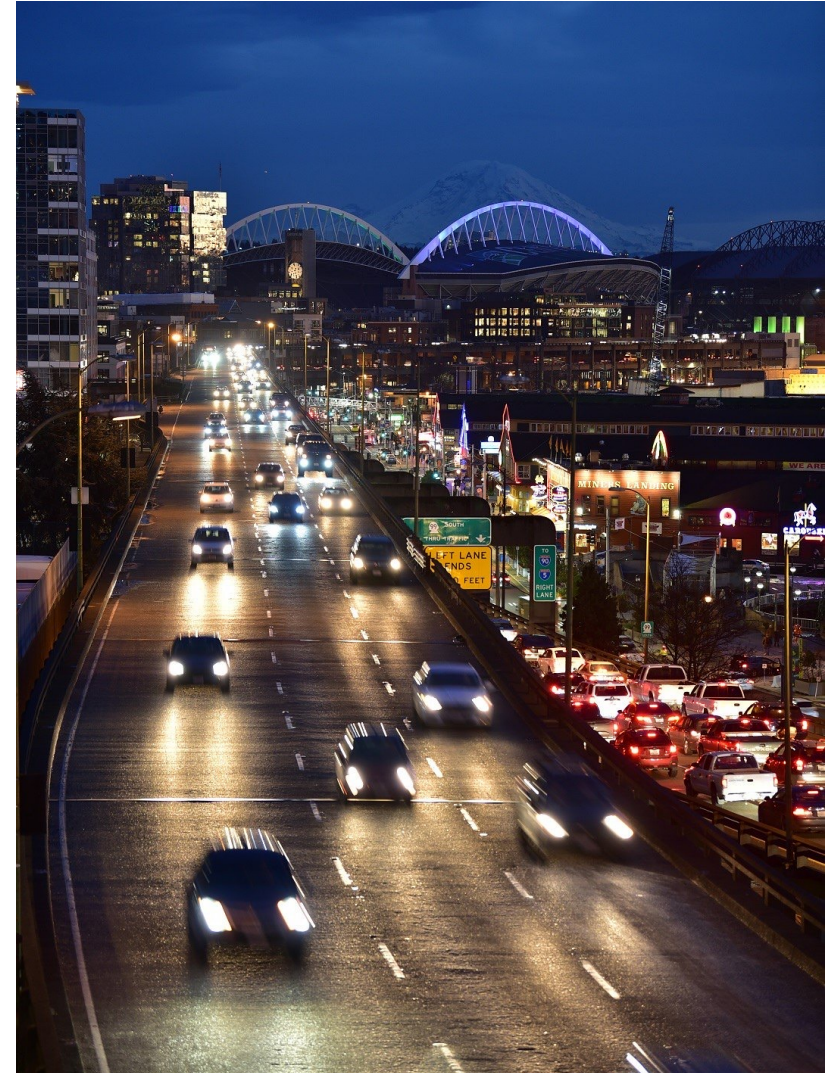
Seattle is a thriving equitable community powered by dependable transportation. We're on a mission to deliver a transportation system that provides safe and affordable access to places and opportunities.

Core Values & Goals:

Equity, Safety, Mobility, Sustainability, Livability, and Excellence.

Presentation Outline

- **Director Greg Spotts**
- **Equity at SDOT 2022-2023**
- **Resources**
- **Question & Responses**



EQUALITY:

Everyone gets the same – regardless if it's needed or right for them.



EQUITY:

Everyone gets what they need – understanding the barriers, circumstances, and conditions.



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Equality



Equity



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Office of Equity & Economic Inclusion (OEEI)



PARTNERSHIP

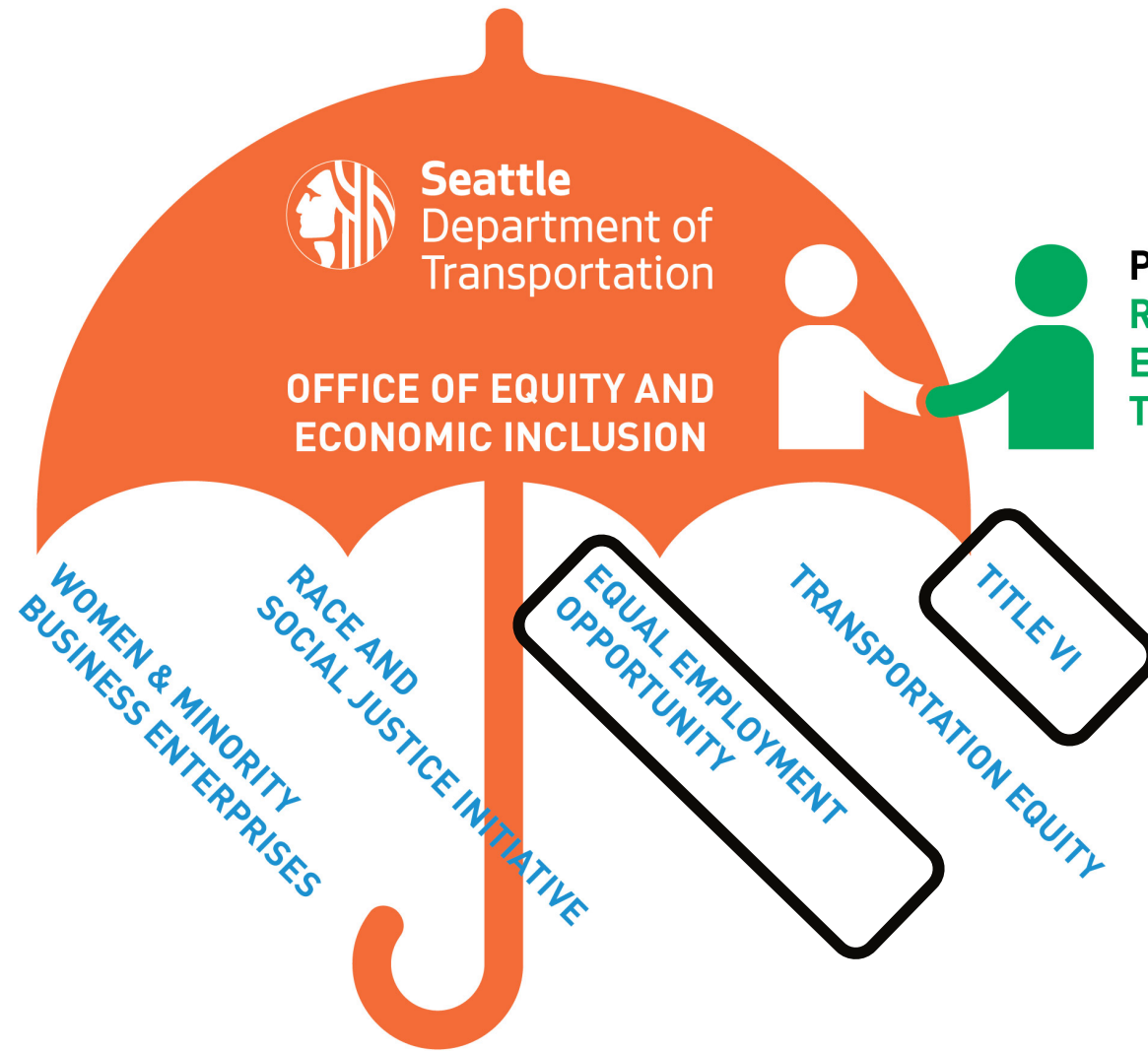
Race and Social Justice Initiative Change Team
Employee Resource Groups
Transportation Equity Workgroup

2022-2023 Highlights include key hires to build our team

- Co-Created two matrixed Equity positions within SDOT
 - Levy Equity Strategic Advisor (SDOT Finance)
 - ST3 Equity Strategic Advisor (SDOT Sound Transit)
- Hired new
 - Transportation Equity Coordinator
 - EEO Program Coordinator
 - Title VI Coordinator

Equity Professional Development at SDOT

- **Require minimum 2.0 hours of annual RSJI Learning & Practice, E3 Goals**
 - **Intersectional Identities Workshops**
 - **Independent Study Module**
 - **Brave Spaces / Safe Spaces learning modules**
- **EEO Trainings / Title VI Trainings**
 - Bystander Intervention Training
 - Microaggressions in the Workplace Training
- **WMBE Advocate Series / Contracting Equity**
- **Employee Resource Groups:**
 - Black Employee Support Team (BEST)
 - LatinX Caucus
 - RISE API (**R**ally for Inclusion, **S**olidarity, and **E**quity, **A**sian **P**acific Islanders)
 - WiiM (Women in Motion)
 - Anti-Racist White Allies (ARWA)
 - LGBTQ+

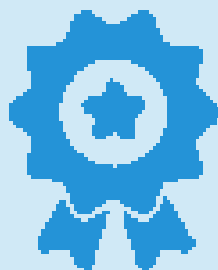


PARTNERSHIP

Race and Social Justice Initiative Change Team
Employee Resource Groups
Transportation Equity Workgroup

INSIDE COMMUNITY

- EEO - Workplace equity across the board
- Cannot discriminate against characteristics e.g. race, gender, religion when hiring or promoting



CALL TO ACTION

Inform

Train

Implement: policy, Transportation
Equity Framework, compliance

OUTSIDE COMMUNITY

- Title VI - Community equity
- Cannot discriminate against characteristics like race, color & national origin

This is everyone's work and it starts with leadership!

Equal Employment Opportunity (EEO)

- Submitted our first EEO Plan to the Federal Transit Authority in March 2021
- Conducted our first self-assessment 2022
- Hired an EEO Coordinator Jan 2023



Title VI of the Civil Rights Act

- The City of Seattle operates its programs, services, employment, contracting, or activities without regard to race, color, national origin.
- 2020 Title VI Plan set a new organizational structure designating a role for compliance. Citywide efforts are led through the Seattle Office of Civil Rights



First Hill Streetcar in the CID

Title VI Language Updates

Title VI: Civil Rights Act of 1964

The City of Seattle operates its programs, activities, and services without regard to race, color, and national origin, in accordance with Title VI of the Civil Rights Act. If you experience discrimination and would like to file a complaint, contact the Seattle Office for Civil Rights. More information on the City of Seattle's Title VI Policy and the procedures to file a complaint may be obtained by:



www.seattle.gov/civilrights/titlevi



titlevi@seattle.gov



For language interpretive services:
206-684-4500 / TTY: 7-1-1

810 Third Avenue
Suite 750
Seattle, WA 98104



Scan the QR code to learn more about your rights.

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Escanee el código QR para obtener más información sobre sus derechos.

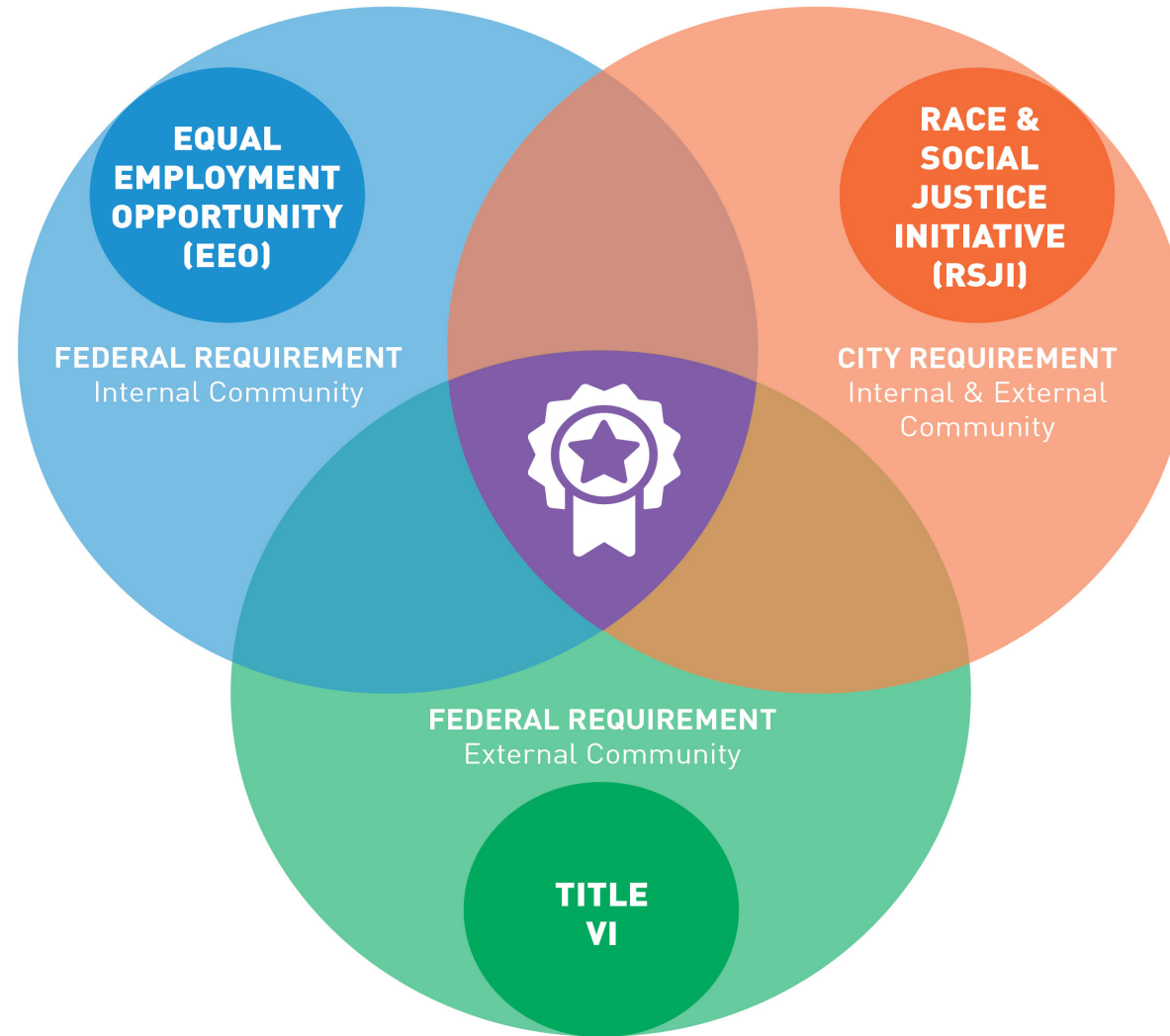
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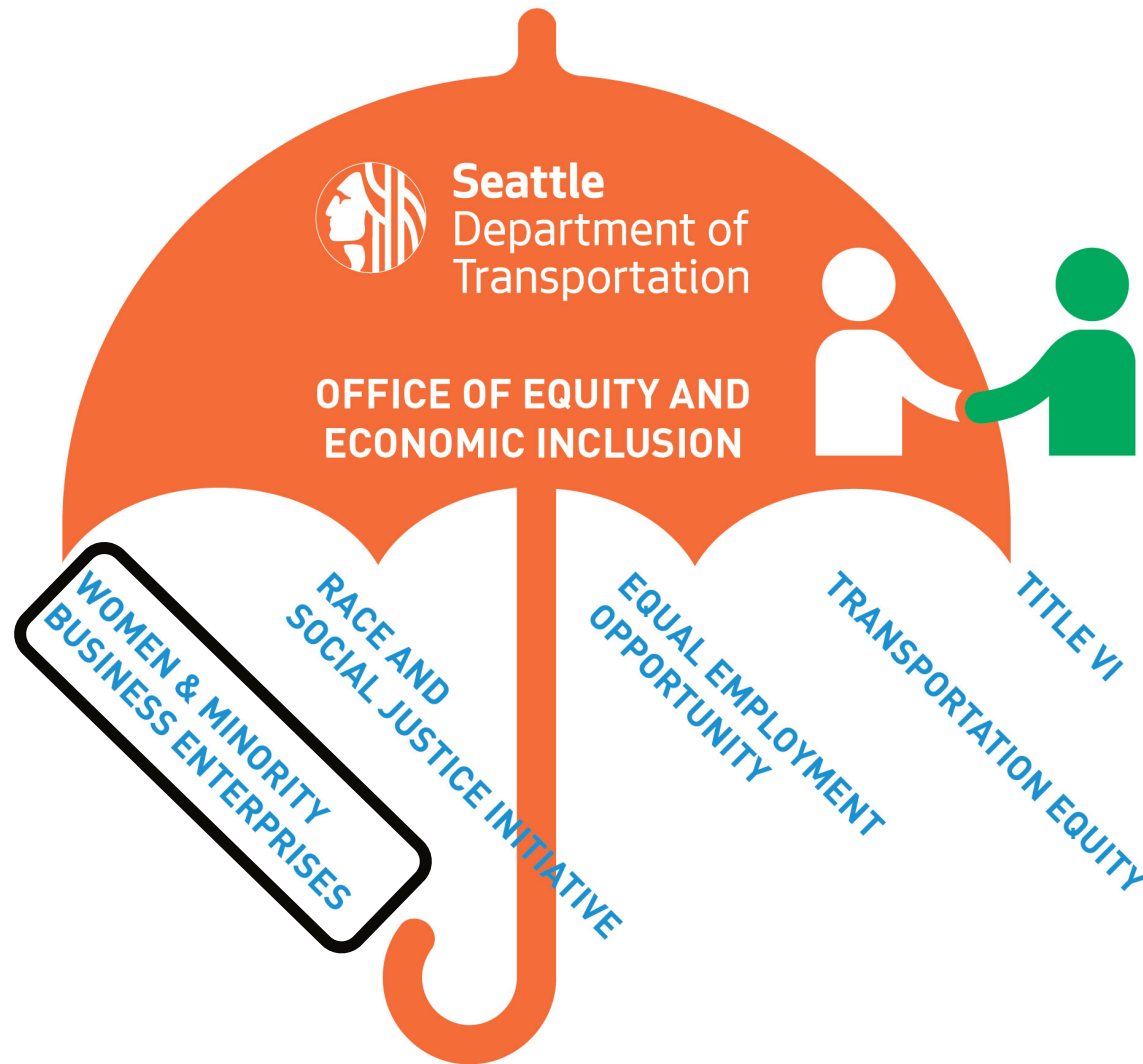
Sawir koodka QR si aad wax badan uga ogaato xuquuqdaada.



Seattle
Department of
Transportation

EQUITY IS EVERYONE'S WORK





PARTNERSHIP

Race and Social Justice Initiative Change Team
Employee Resource Groups
Transportation Equity Workgroup

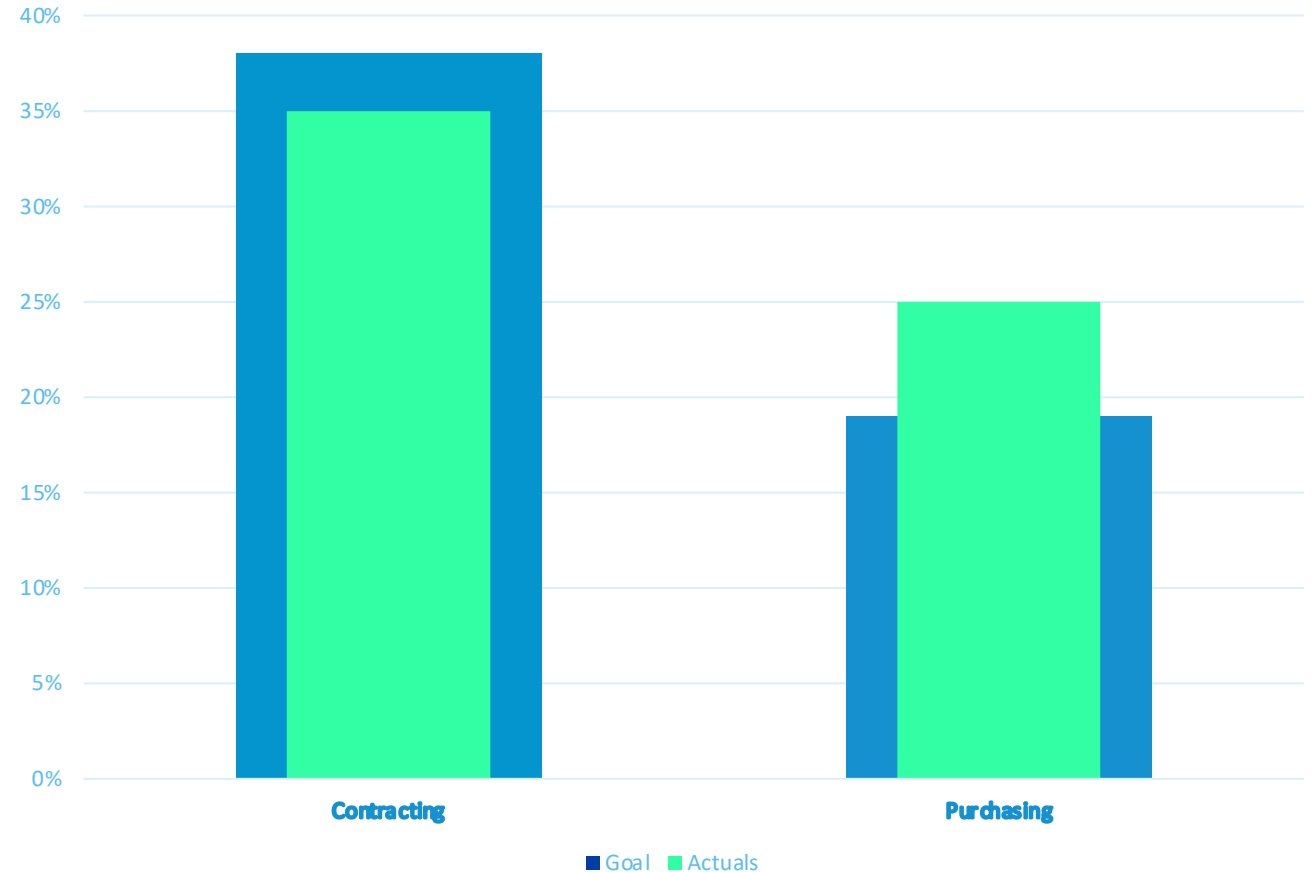
WMBE Commitments

- **Reach Levy to Move Seattle 23% WMBE goal**
 - 27% WMBE utilization through 2022
 - \$183M to WMBE firms
- **Meet 2023 SDOT WMBE Goals:**
 - 38% consulting, 20% purchasing
- **Outreach to WMBE community**
- **Train and support staff; piloting new initiatives:**
 - Increase project team meetings to increase WMBE facetime with SDOT staff
 - Increase equity considerations in contract solicitations



2022 WMBE outcomes

- **\$71.5M** total spend in Consulting and Purchasing
- **\$21.6M** to WMBEs in Consulting and Purchasing
- **\$13.3M** to WMBE firms in Consulting
 - 5-year consulting WMBE utilization average of 40%
- **\$8.3M** to WMBE firms in Purchasing
 - Went over our WMBE purchasing goals for the first time in 2022



2023 Contracting Equity

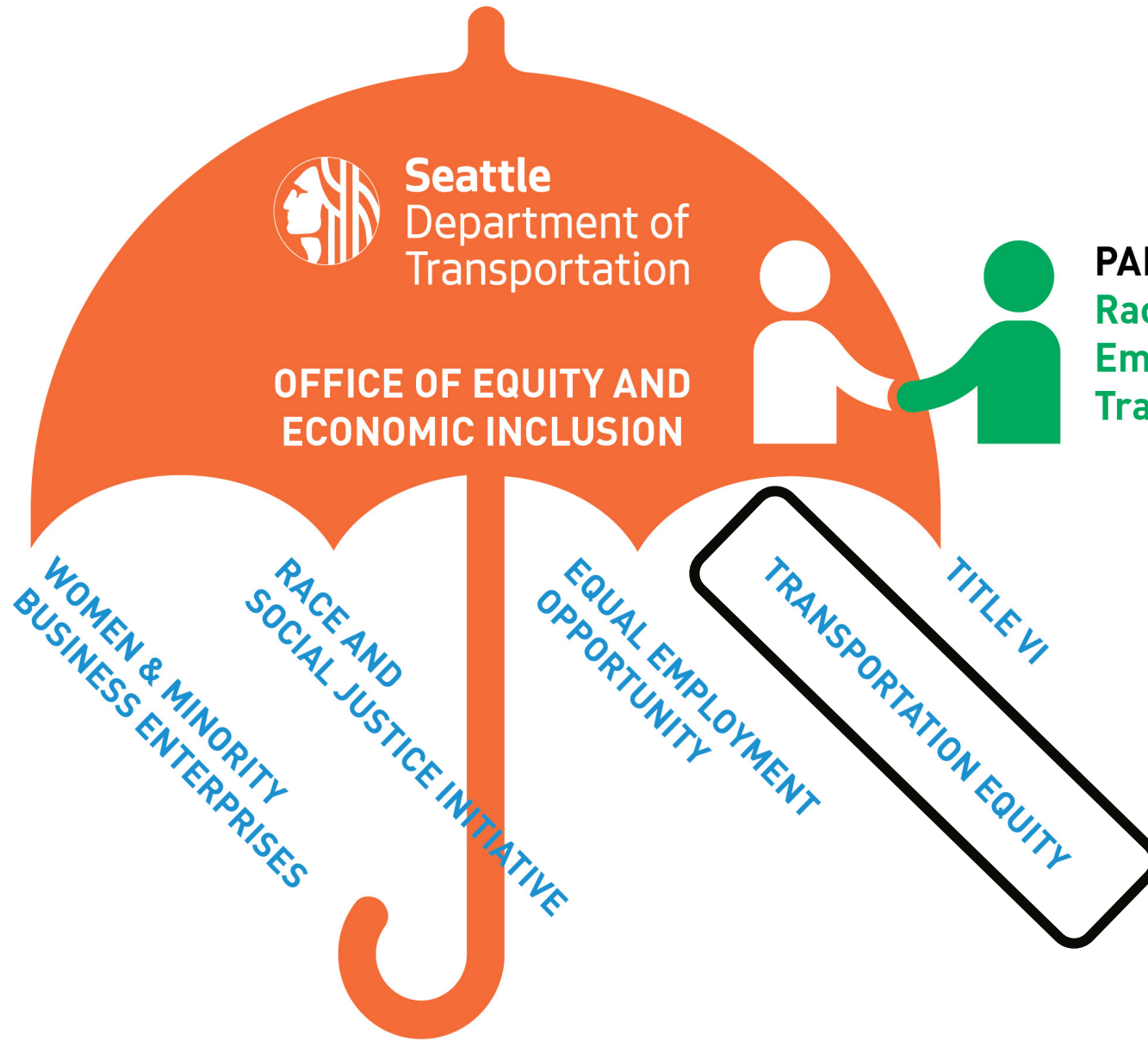
- **Improving our Systems**

- Full review of Move Seattle Levy spend and all consultant contracts
- Working toward connecting SDOT data systems and automating Citywide WMBE data

- **TEF Values and Tactics**

- TEF Tactics help us track progress toward reducing barriers and increasing transparency in contracting for community members and organizations, including WMBE firms.
- Explore how we set goals and monitor spending to BIPOC community members and CBOs.





PARTNERSHIP

Race and Social Justice Initiative Change Team
Employee Resource Groups
Transportation Equity Workgroup

Transportation Equity Program

What:

Oversee, advise and support department-wide implementation of the Transportation Equity Framework (TEF)

A transportation system that supports Black, Indigenous and People of Color (BIPOC) communities and communities historically and currently underinvested by government.



Result:

- Transportation Equity Workgroup (TEW)
- Integration and implementation of the TEF

Transportation Equity Framework (TEF)



The screenshot shows the Transportation Equity Framework (TEF) website. At the top, there is a horizontal navigation bar with ten tabs: Introduction (selected), Community Engagement, COVID-19, Decision-Making, Transparency..., Economic Development, Infrastructure, Planning and Maintenance, Land Use, Housing and Displacement, Mobility and Transportation Options, Safety, Transit Access, and Transportation Justice. Below the tabs, the title "Transportation Equity Framework" is followed by a paragraph: "The Transportation Equity Framework (TEF), Implementation Plan includes over 200 tactics that advance the TEF values and strategies. The plan spans from 2022 to 2028, and tactics are labeled with categories. SDOT acknowledges that the TEF and its implementation plan is a living dynamic document that will be adjusted, monitored, and updated regularly." Below this is another paragraph: "Click on the tabs above to learn more about the TEF values and its corresponding tactics! We encourage folks to use the filter feature to view specific strategies and categories you're most interested in." In the center is a circular diagram with eight blue circles around a central black circle. The central circle contains the text "Decision-Making, Transparency and Accountability" and an icon of a person at a computer. The surrounding circles are: "Land Use, Housing and Displacement" (house icon), "Economic Development" (dollar sign icon), "Safety" (warning triangle icon), "Transit Access" (bus icon), "Mobility & Transportation Options" (person with arrows icon), "Infrastructure, Planning and Maintenance" (gears icon), "COVID-19 - Intersection with Public Health & Transportation" (plus sign icon), and "Transportation Justice" (scales icon). The Seattle Department of Transportation logo is at the bottom right of the diagram. At the very bottom of the screenshot, there is a footer with "lower BI", a navigation arrow, "1 of 11", a zoom slider set to 96%, and a home icon.

Transportation Equity Framework

The Transportation Equity Framework (TEF), Implementation Plan includes over 200 tactics that advance the TEF values and strategies. The plan spans from 2022 to 2028, and tactics are labeled with categories. SDOT acknowledges that the TEF and its implementation plan is a living dynamic document that will be adjusted, monitored, and updated regularly.

Click on the tabs above to learn more about the TEF values and its corresponding tactics! We encourage folks to use the filter feature to view specific strategies and categories you're most interested in.

Seattle Department of Transportation

lower BI < 1 of 11 > 96%

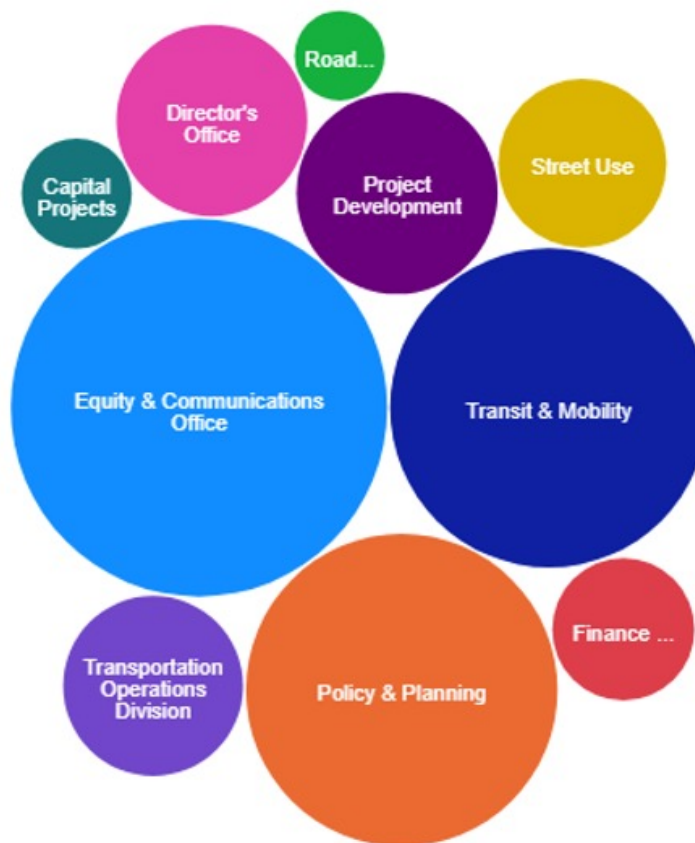
- The TEF is a roadmap for SDOT decision-makers, employees, stakeholders, partners, and the greater community to collaboratively create an equitable transportation system.
- 10 TEF values & over 220 tactics
- Implementation timeline: 2022 to 2028

Implementation of TEF

A plan to evolve government policies, practices and processes

- Multi-divisional effort
- Highlights of TEF integration
 - Seattle Transportation Plan (STP)
 - Integration into STP priority goals
 - STP public engagement strategy
- "Having the TEF as a tool and guiding document for our work has been immeasurably valuable to establish clear priorities and keep staff accountable."

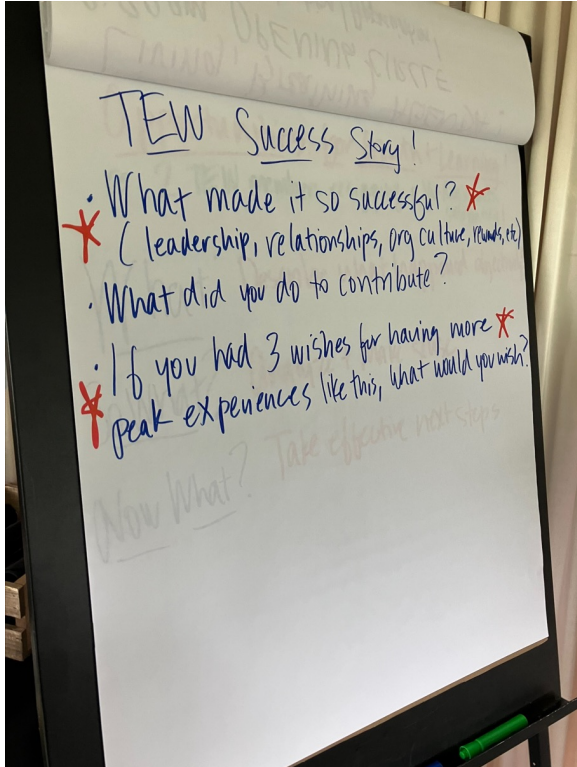
SDOT staff



Number of TEF tactics in progress

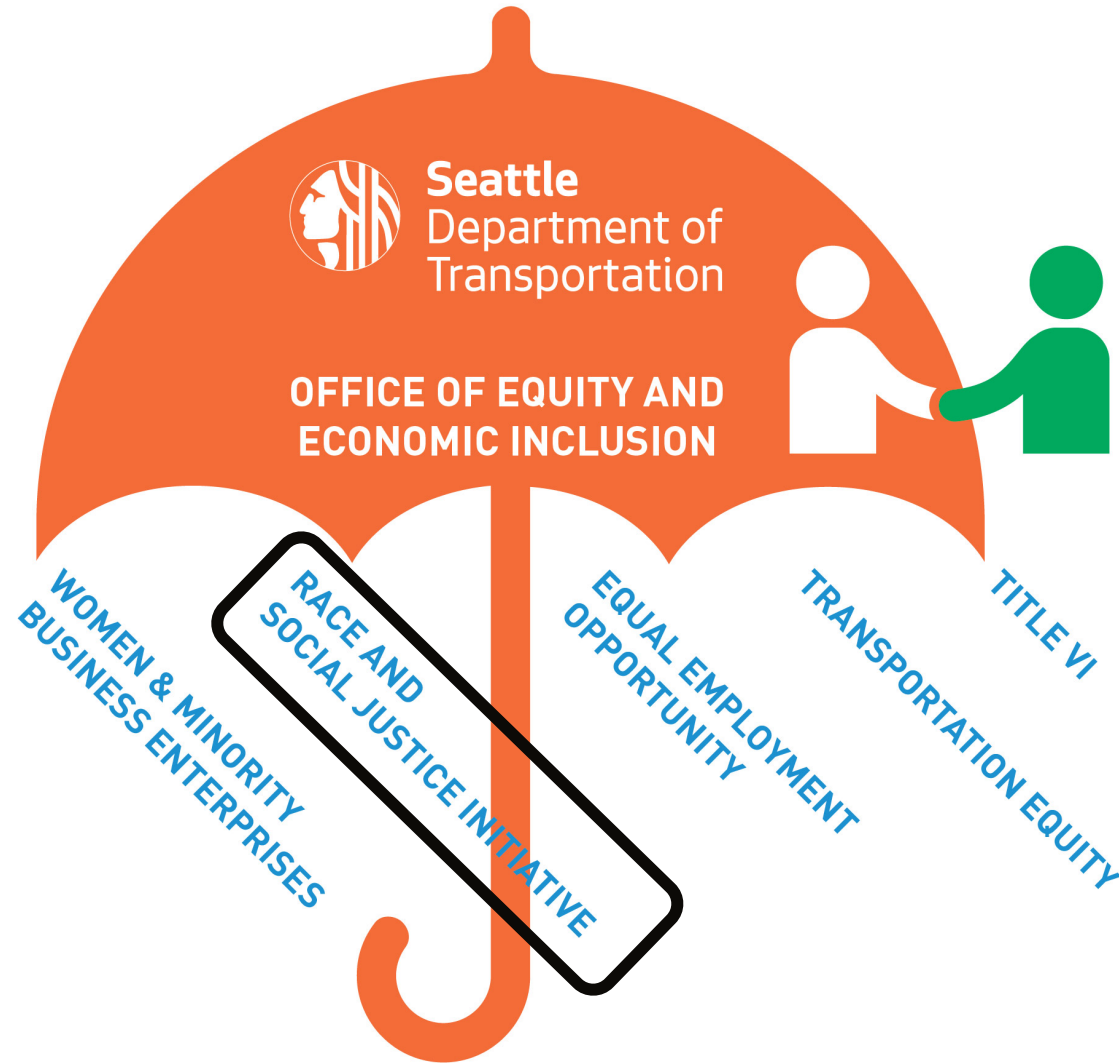
- Capital Projects: 3
- Director's Office: 9
- Equity & Communications Office: 35
- Finance & Administration: 5
- Policy & Planning: 24
- Project Development: 10
- Roadway Structures: 2
- Street Use: 7
- Transportation Operations: 8
- Transit & Mobility: 25

TEW: Continued Collaboration



"The work continues in the implementation phase of the TEF. Part of this co-creation process has entailed the development of more than 200 tactics with SDOT staff. We are motivated and inspired to monitor the implementation of these vital tactics over the course of the next 6 years while also continuing to work with SDOT on many other important issues such as the Seattle Transportation Plan."

TEW Co-Chairs
Yordanos Teferi
Rizwan Rizwi



PARTNERSHIP

Race and Social Justice Initiative Change Team
Employee Resource Groups
Transportation Equity Workgroup

RSJI Change Team 2022

Team of employees working together to help achieve RSJI goals

Learning & Practice

Transportation Equity Framework Implementation

Workplan / Racial Equity Toolkit (RET)

Communications

Tri - Chair + Alumni advisor

2022 Racial Equity Toolkit (RET) Examples

- Automated Enforcement (Vision Zero)
- Road Pricing for Equitable Mobility
- Safe Start Program (Street Use / Public Space Management)
- Lake Washington Blvd



RSJI Change Team Accomplishments

- **Race and Social Justice Initiative becomes a City Ordinance**
 - Acknowledgment, recognition, and appreciation to all the hands and hearts that moved this initiative forward.
- **TEF Tactics | Crew Learning & Practice | Employee Experience Council**



Resource Links

- [OEEI Website](#)
- [Transportation Equity webpage](#)
 - [Transportation Equity Framework Dashboard](#)
- [Moving the Needle Reports](#)
- [EEO Report 2016-2020](#)
- [2017-2020 Title VI Report to the Federal Transit Administration](#)
- [2020 Annual Title VI Update & Accomplishment Report](#)
- [RSJI website : RACE AND SOCIAL JUSTICE INITIATIVE 2019 - 2021 STRATEGY](#)
- [WMBE webpage](#)



SDOT Youth Transit Ambassador Pilot Program

A blue-tinted photograph of a city street scene. In the foreground, a group of pedestrians is walking on a sidewalk. A tram is moving along the street, featuring a colorful advertisement for the 'Jim Henson Exhibition' and 'MUSEUM OF POP CULTURE' by 'Imagination Unlimited'. The tram has 'LAKE UNION' written on its front. In the background, there are modern buildings, a construction crane, and traffic lights.

From the
SDOT Office of Equity & Economic Inclusion
Thank you!

Questions?

Stay in touch:



Michele.Domingo@seattle.gov



206.735.1935



<https://www.seattle.gov/transportation/about-us/office-of-equity-and-economic-inclusion>





Legislation Text

File #: CB 120611, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Seattle Public Utilities; declaring property at 8817 Seward Park Avenue S, commonly known as the Former Henderson St Pumping Plant, as surplus to the City's needs; authorizing the sale of this real property as a direct sale to Seattle Public Schools; authorizing the General Manager and CEO of Seattle Public Utilities to execute all documents for the sale of the property; designating the proceeds from the sale; and ratifying and confirming certain prior acts.

WHEREAS, Seattle Public Utilities' (SPU) Drainage and Wastewater Utility owns a 10,000 square-foot parcel of real property currently described as King County Parcel Number 352404-9192 at 8817 Seward Park Avenue S (the "Property"); and

WHEREAS, Ordinance 39385, adopted in 1919, authorized the City of Seattle to condemn and acquire the Property for public purposes; and

WHEREAS, Ordinance 64831, adopted in 1934, allocated funding for the Property; and

WHEREAS, Ordinance 66113, adopted in 1936, placed the Property under the jurisdiction and control of the Board of Park Commissioners; and

WHEREAS, The City of Seattle constructed the Henderson Street Pumping Station on the Property, as part of the Henderson Street Trunk Project, which was completed in 1937; and

WHEREAS, Ordinance 91457, adopted in 1962, transferred jurisdiction of the Property from the Park Department to the Sewer Utilities; and

WHEREAS, the Henderson Street Pumping Station was decommissioned and deconstructed in the 1970s, as King County took over the responsibility for the drainage and wastewater function and replaced the infrastructure in a different location; and

WHEREAS, the only remaining infrastructure owned by SPU on the Property is a maintenance hole; and

WHEREAS, the Seattle Public Schools (SPS) approached SPU in December 2021 to purchase this parcel as part of the multi-year project to rebuild Rainier Beach High School; and

WHEREAS, SPU declared the property as excess to its needs in an internal process in July 2022; and

WHEREAS, SPU and SPS have agreed upon the purchase and sale of the Property at the appraised value of \$1,250,000; and

WHEREAS, SPU has agreed to sell the Property according to terms in a purchase and sale agreement which was conditioned upon City Council and SPS Board approval; and

WHEREAS, Resolution 31837 adopted procedures by the Seattle City Council regarding property reuse and disposition of City-owned property (Property Disposition Procedures) by the Department of Finance and Administrative Services (FAS); and

WHEREAS, in accordance with the Property Disposition Procedures, FAS has provided internal and external notification and comment period for the Excess Property, and has published the Final Recommendation Report on the Reuse and Disposal of the Property (Final Report); and

WHEREAS, the Final Report recommends that the Property is offered for sale through a negotiated sale to SPS, and, if not sold, to be retained by SPU; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City of Seattle approves the steps taken as documented in the Final Report for sale of the Property as legally described as follows (Parcel No. 352404-9192):

PORTION OF GOVERNMENT LOT 3, SECTION 35, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SOUTH HENDERSON STREET AND THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE WEST ALONG SAID NORTH LINE 100 FEET;
THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH 100 FEET;
THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTH HENDERSON STREET 100 FEET TO THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;

THENCE SOUTHERLY ALONG SAID WESTERLY LINE 100 FEET TO THE BEGINNING.

Section 2. The Property is found to be no longer required for municipal purposes and is declared surplus to the City's needs.

Section 3. The General Manager and CEO of Seattle Public Utilities, or the General Manager's designee, is authorized to negotiate and to complete all agreements and any ancillary documents to sell the property to the Seattle Public School District, according to the terms in the conditional Purchase and Sale Agreement attached to this ordinance as Attachment A.

Section 4. Proceeds from the sale shall be deposited in the Seattle Public Utilities Drainage and Wastewater Fund (44010).

Section 5. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

Attachments:

Attachment A - Former Henderson St Pumping Plant Conditional Purchase and Sale Agreement

PURCHASE AND SALE AGREEMENT FOR SALE OF REAL PROPERTY

THIS PURCHASE AND SALE AGREEMENT FOR SALE OF REAL PROPERTY ("Agreement") is entered into as of March 21, 2023 between **Seattle Public Utilities**, a department of The City of Seattle and a Washington State municipal corporation, ("Seller"), and **Seattle School District #1**, a corporation of the state of Washington ("Purchaser"). The Seller and Purchaser are referred to collectively as the "Parties."

In consideration of the mutual promises and undertakings contained in this Agreement, the Parties agree as follows:

1. PROPERTY AND INTERESTS

Seller owns the real property **located at 8817 Seward Park Ave S, Seattle, Washington, King County Tax ID Numbers 352404-9192** (the "Property") and has determined that the Property is no longer needed for providing continued public utility service or other public use. The Property is legally described on **Exhibit A**.

2. SALE OF PROPERTY

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, on the terms and conditions set forth in this Agreement, the Property.

3. PURCHASE PRICE

3.1 Purchase Price. The total purchase price for the Property ("Purchase Price") is ONE MILLION TWO HUNDRED AND FIFTY THOUSAND AND NO/100 DOLLARS (\$1,250,000). The Purchase Price, less the Deposit and all accrued interest, shall be paid in cash at Closing.

3.2 Expenses incurred by the City of Seattle in the preparation of the property for sale and in the transactional cost are represented in the sales price of the property.

4. TITLE, INSPECTIONS, AND CONDITION OF PROPERTY

4.1 Title. Closing shall be conditioned upon First American title Insurance ("Title Company") issuing or committing to issue to Purchaser an ALTA owner's policy of title insurance in the amount of the Purchase Price (the "Title Policy"). Purchaser acknowledges that Seller has provided it with a copy of the Commitment for Title Insurance from First American Title Insurance Company dated January 27, 2022 and issued under order no. 4209-3650286 (the "Preliminary Report") and Purchaser represents that the same contains no objectionable matters. Notwithstanding anything to the contrary provided herein, Seller shall be obligated to remove from title prior to the Closing:

(a) any delinquent taxes and assessments; and

(b) any exceptions caused by Seller's voluntary acts after the execution date of this Agreement and approved by Purchaser hereunder.

(c) Title shall be conveyed by Warranty Deed in the form shown in **Exhibit B** hereto.

4.2 Cost of Title Insurance. Seller shall pay the premium for the issuance of a standard coverage owner's title insurance policy to be issued to Purchaser at Closing. Purchaser shall pay the increased cost for extended (ALTA) coverage as well as the cost of any additional endorsements Purchaser may request and the cost of any survey required by the Title Company. Notwithstanding the foregoing sentence, if this Agreement is terminated without Closing due to Purchaser's default, Purchaser shall bear all costs of the title commitment.

4.3 Condition of Property. The Property shall be conveyed AS-IS, WHERE-IS, with all faults, in its existing condition at Closing, including but not limited to environmental conditions. Seller makes no

warranties or representations concerning the condition of the Property or its suitability for Purchaser's purposes.

4.4 License and Inspection Period: Purchaser shall be under no obligation to purchase the Premises or otherwise perform under this Agreement unless Purchaser determines the Premises to be, in all respects, suitable to Purchaser. The decision as to whether the Premises are suitable for Purchaser's intended use shall be the sole decision of Purchaser, determined in the absolute discretion of Purchaser, with Purchaser's decision being final and binding upon both Parties. For a period of 90 days from the date of Seller's execution of this agreement or until Purchaser terminates this Agreement, whichever comes first, Purchaser may enter onto the Property for the purposes of survey and inspection to determine the feasibility of the Property for Purchaser's purposes (the "Inspection Period"). Purchaser agrees that (i) there shall be no destructive testing of any part of the Property without Seller's prior written consent, (ii) Purchaser will notify Seller at least twenty-four (24) hours in advance of any entry by Purchaser or its agents onto the Property, (iii) Purchaser shall give Seller the opportunity to accompany Purchaser and its agents onto the Property, (iv) all activities conducted on the Property shall be undertaken in a safe, workmanlike and reasonable manner in compliance with all applicable law, and (v) Purchaser shall, at its expense, restore any area which may be disturbed to its condition prior to such activities. If Purchaser objects to any condition determined in its inspection and survey, it may terminate this Agreement by written notice to Seller and in such event Seller shall return the Deposit to Purchaser, together with accrued interest thereon, and neither Party shall have having any other rights or obligations under this Agreement except for those rights and obligations which by their terms survive termination. If Purchaser does not terminate this Agreement prior to the expiration of the Inspection Period, the Deposit shall become non-refundable to Purchaser upon the expiration of the Inspection Period.

4.5 Indemnity for Inspection: The General Indemnity provisions contained in Section 13 of this Agreement shall apply to the presence and activities of Purchaser and its authorized agents and representatives on the Property during the Inspection Period.

5. REPRESENTATIONS AND WARRANTIES

5.1 Purchaser's Warranties. Purchaser represents and warrants as follows:

5.1.1 Purchaser acknowledges and agrees that the Property is being sold AS IS, WHERE IS, with all faults, including but not limited to environmental conditions, subject to all existing encumbrances, including easements, restrictions, and reservations, if any.

5.1.2 Purchaser is a municipal corporation duly organized, validly existing, and in good standing under the laws of the State of Washington, and has the legal power, right and authority to enter into this Agreement and the instruments and documents that are to be executed by the Purchaser and are referenced herein, and to consummate the transaction contemplated hereby.

5.2 Seller's Warranties. Seller represents and warrants as follows:

5.2.1 Seller is a municipal corporation duly organized and validly existing under the laws of the State of Washington. Seller warrants that the General Manager/CEO of the Seattle Public Utilities or designee is authorized on behalf of the Seller to execute this Agreement.

5.2.2. To Seller's knowledge there are no covenants, conditions, restrictions, or contractual obligations of Seller that will prevent Seller from performing its obligations under the Agreement.

5.2.3 Seller is not a foreign person, nonresident alien, foreign corporation, foreign partnership, foreign trust, or foreign estate, as those terms are defined in the Internal Revenue Code and the Income Tax Regulations promulgated hereunder. At Closing, Seller shall deliver to Purchaser a certificate of non-foreign status in form required by the Income Tax Regulations.

6. PURCHASER'S CONDITIONS PRECEDENT TO CLOSING

6.1 Purchaser shall be obligated to complete this transaction only upon the following conditions:

6.1.1 This Agreement shall not have terminated pursuant to any other provision hereof

6.1.2 Seller is able to convey title to the Property.

6.1.3 The Title Company is committed to issue to Purchaser the Title Policy (subject only to payment of its premiums therefor).

6.1.4 The representations and warranties made by Seller in this Agreement are true on the date hereof and shall be true as of the date of Closing with the same effect as though such representations and warranties had been made on and as of the date of Closing.

6.1.5 Project approval as described in Section 24.

7. SELLER'S CONDITIONS PRECEDENT TO CLOSING

7.1 Seller shall be obligated to complete this transaction upon the following conditions:

7.1.1 Purchaser shall be in compliance with all of its obligations under this Agreement.

7.1.2 The representations and warranties made by Purchaser in this Agreement are true on and as of the date of Closing with the same effect as though such representations and warranties had been made on and as of the date of Closing.

7.1.3 Project approval as described in Section 24.

8. ESCROW INSTRUCTIONS AND CLOSING

8.1 Escrow Instructions. Upon mutual execution of this Agreement, Seller shall deposit an executed counterpart of this Agreement with Title Company and the provisions of this Agreement shall constitute the joint instructions of the Parties to the Escrow Agent. Each party shall promptly, upon the request of the other or Escrow Agent, execute, and as required, have acknowledged, and deliver to the other, any and all further instruments and shall take all such further action as may be requested or appropriate to evidence or give effect to the provisions of this Agreement or to satisfy escrow agent's requirements.

8.2 Date of Closing. The Closing shall occur no later than October 2, 2023. ("Closing").

8.3 Purchaser's Closing Obligations & Instruments. At Closing, Purchaser shall deliver to Seller through the Escrow Agent:

1) by certified or cashier's check or wire transfer, the Purchase Price, less the Deposit and all interest earned thereon; and

2) such resolutions, authorizations, and/or other documents or agreements relating to Purchaser as shall be required by Escrow Agent; and such other instruments as are reasonably necessary to consummate this purchase and sale transaction.

8.4 Seller's Closing Obligations & Instruments. At Closing, Seller shall deliver to Purchaser through the Escrow Agent:

1) a fully executed and acknowledged Warranty Deed in the form of Exhibit B hereto;

9. ESCROW AGENT'S OBLIGATIONS

9.1 Following execution of this Agreement, Seller shall open an escrow account at the downtown Seattle office of First American Title and Escrow, 818 Stewart Street, Suite 800, Seattle WA 98101 ("Escrow Agent"), in order to consummate the sale and purchase of the Property. Upon Purchaser's delivery of the Deposit to Escrow Agent, Escrow Agent shall place the Deposit in an interest-bearing account and shall apply it, together with all accrued interest thereon, to the Purchase Price at Closing unless forfeited or refunded to Purchaser as provided elsewhere in this Agreement.

9.2 Escrow Agent shall receive, hold and disburse all funds, arrange the execution, delivery and recording of all instruments necessary to this transaction and shall otherwise act in accordance with the mutual written instructions of the Parties to this Agreement and in accordance with the laws of the State of Washington.

9.3 Escrow Agent shall record the deed and thereafter shall pay to Seller the Purchase Price, as adjusted and prorated for Seller's portion of costs of this transaction and after deduction of all applicable fees and taxes.

9.4 Proration and Expenses. Assessments, surface water management charges, conservation service charges, and utility charges constituting liens against the Property, all for the year of Closing, shall be prorated as of the date of Closing. Any documentary transfer tax, real estate excise tax, or other similar tax in accordance with the requirements of lawful authority shall be paid by Seller. The costs of Title Insurance will be allocated as provided in Section 4.2. Seller and Purchaser will share equally the cost of the escrow fee and expenses associated therewith. All other recording and closing costs shall be the responsibility of the Purchaser.

9.5 As soon as possible after Closing, the Escrow Agent shall have the Title Company issue to Purchaser the Title Policy, insuring fee simple title to the Property subject only to exceptions listed in the title report and approved or deemed to have been approved by Purchaser.

10. DEFAULT

10.1 If either party to this Agreement shall fail or refuse to perform or satisfy a material obligation under this Agreement and the other party has performed all of its obligations under this Agreement, then the party who has failed or refused to perform shall be in default and the non-defaulting party may elect from the following remedies.

10.1.1 Seller in Default. In the event that Seller is in default, Purchaser may recover its Deposit together with accrued interest as Purchaser's sole and exclusive remedy under this Agreement, in which event this Agreement shall terminate and Purchaser shall have no further rights and Seller shall have no further obligations under this Agreement except for those obligations which, by their terms, survive termination of this Agreement.

10.1.2 Purchaser in Default. In the event that Purchaser fails to close this transaction without legal excuse, Seller may retain the Deposit together with accrued interest as Seller's sole and exclusive remedy under this Agreement, in which event this Agreement shall terminate and Seller shall have no further rights and Purchaser shall have no further obligations under this Agreement except for those obligations which, by their terms, survive termination of this Agreement.

11. RISK OF LOSS

If the improvements on the Property are destroyed or materially damaged between the date this Agreement is executed and the date title is conveyed to Purchaser, Purchaser shall accept the Property in its then condition and any insurance proceeds payable to Seller by reason of the damage to the Property shall be paid and/or assigned, as the case may be, to Purchaser.

12. CONDEMNATION

If, prior to the date of Closing, all or any part of the Property is taken by condemnation by a governmental authority other than the City of Seattle or any agency, commission, department or entity in any way related thereto ("Superior Governmental Authority"), the Purchaser may elect to cancel this Agreement by giving

Seller notice to that effect, whereupon the Escrow Agent shall immediately return the Deposit and all interest earned thereon to the Purchaser and both Parties shall be relieved and released from any liability hereunder to the other. Alternatively, the Purchaser may elect to take title to the Property in accordance with the terms and conditions of this Agreement without reduction of the Purchase Price and shall be entitled to receive from the Superior Governmental Authority any condemnation award or benefit. If Purchaser purchases the Property and complies with all of the terms of this Agreement, Seller shall assign to Purchaser all of its right, title, and interest in and to any such condemnation award or benefit, if any, that may be owing to the owner of the Property because of such condemnation or taking of, or damage or change to the Property, provided, however, that in such event, Seller's warranties, shall lapse.

13. GENERAL INDEMNIFICATION.

To the fullest extent permitted by law, Purchaser, its successors and assigns, shall indemnify, defend and hold harmless Seller and Seller's authorized agents and employees, from and against any and all loss, claims, demands, causes of action, damages, liability, liens and encumbrances, costs and expenses, including all out-of-pocket litigation costs and the reasonable fees and expense of counsel related to or arising from any act or omission of Purchaser, its successors or assigns, agents, contractors, licensees, invitees, or employees arising out of, related to or connected with this Agreement or the Property, including but not limited to the presence or activities of Purchaser, its successors, assigns, agents, contractors, licensees, invitees or employees on the Property during the Inspection Period as provided in Section 4 of this Agreement.

With respect to all or any portion of the foregoing indemnity that may be held to be within the purview of RCW 4.24.115, such indemnity shall apply only to the maximum extent permitted by RCW 4.24.115. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Purchaser's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide Seller with a full and complete indemnity from claims made by the Purchaser and its officers, agents, employees, and contractors.

Seller shall notify Purchaser in writing of any claim for indemnification. Any defense of a matter giving rise to the claim for indemnification shall be conducted by counsel chosen by the Purchaser and satisfactory to the City.

The indemnity provisions of this Section 13 shall survive any termination of this Agreement.

14. ENVIRONMENTAL RELEASE AND INDEMNITY.

Purchaser acknowledges that adverse physical, economic or other conditions (including without limitation, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the Property, and Purchaser assumes Seller's responsibility for all environmental conditions of the Property, known or unknown and arising before or after Closing, including but not limited to responsibility, if any, for investigation, removal or remediation actions relating to the presence, release or threatened release of any Hazardous Substance or other environmental contamination relating to the Property. Without limiting Purchaser's obligations under the General Indemnification in Section 13 of this Agreement, Purchaser shall release and indemnify, defend, and hold Seller and its past, present and future officials, employees, and agents, harmless from and against any and all claims, demands, penalties, fees, damages, losses, expenses (including but not limited to regulatory agencies, attorneys, contractors and consultants' fees and costs), and liabilities arising out of, or in any way connected with, the condition of the Property, including but not limited to any alleged or actual past, present, or future presence, or release or threatened release, of any Hazardous Substance in, on, under or emanating from the Property, or any portion thereof or improvement thereon, from any cause whatsoever; it being intended that Purchaser shall so indemnify Seller and such personnel without regard to any fault or responsibility of Seller or Purchaser.

For purposes of this Section 14, the term "Hazardous Substance" shall mean petroleum products and compounds containing them; flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; asbestos or asbestos-containing materials in any friable form; underground

or above-ground storage tanks; or any substance or material that is now or hereafter becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to environmental protection, contamination or cleanup.

Purchaser's release and indemnification shall include both claims by Purchaser against Seller and claims made against Seller or Purchaser by any and all third parties.

The obligation to indemnify and defend shall include, but not be limited to, any liability of Seller to any and all federal, state or local regulatory agencies or other persons or entities for remedial action costs and natural resources damages claims. Any legal obligation to complete all environmental investigation, removal or remediation of the Property and the acknowledgement, and release and indemnification touch and concern the Property, restrict the use of the Property, constitute an assessment against the Property and are intended to run with the land and bind Purchaser and Purchaser's successors and assigns, and inure to the benefit of Seller and its successors and assigns. Purchaser's obligations under this Section 14 shall apply regardless of whether or not Purchaser is culpable, negligent or in violation of any law, ordinance, rule or regulation. The provisions of this Section 15 are not intended, nor shall they, release, discharge or affect any rights or causes of action that Seller or Purchaser may have against any other person or entity, except as otherwise expressly stated herein and each of the Parties reserves all such rights.

Purchaser's obligations under this Section 14 shall be included as a "COVENANT REGARDING ENVIRONMENTAL CONDITIONS" in the Warranty Deed attached to this Agreement as **Exhibit B**.

15. BROKERS; INDEMNIFICATION

The Seller is not represented by a real estate broker. The Purchaser represents that it has not been represented by a broker in connection with the purchase of the Property. Purchaser shall hold harmless, indemnify and defend the Seller from and against any claim based on any alleged fact inconsistent with such party's warranty and representation contained in this Section 15. This indemnification obligation shall survive Closing and the termination of this Agreement.

16. ASSIGNMENT; BINDING EFFECT

Purchaser may not assign its interest in this Agreement to any other party, without Seller's prior written consent to such assignment. The terms and conditions of this Agreement shall apply to and be binding upon the executors, administrators, successors and assigns of each Party.

17. NOTICES

17.1 All notices, requests, demands and other communications under this Agreement shall be in writing and shall either be delivered in person, sent via facsimile, or sent by Federal Express or by registered or certified mail through the U.S. Postal Service with postage prepaid as follows, or to such other addresses as either Party may designate upon five days' written notice to the other Party:

SELLER:

Name: Jacques Rodriguez, Acting Real Property Manager
Seattle Public Utilities, City of Seattle
Address: PO Box 34018
Seattle WA 98124-4018
Email: jacques.rodriguez@seattle.gov
Phone: 206/684-7586

PURCHASER:

Name: Seattle School District No. 1, of King County, Washington
Attn: Lewis A. Carlson
Address: John Stanford Center for Educational Excellence 2445

2445 Third Avenue South, MS 32-3645
P.O. Box 34165
Seattle, WA 98134

With a copy to:

Name: Seattle School District No. 1, of King County, Washington
Attn: Gregory Narver, General Counsel
Address: John Stanford Center for Educational Excellence
2445 Third Avenue South, MS 32-3645
P.O. Box 34165
Seattle, WA 98134

ESCROW AGENT:

Name: First American Title
Address: 818 Stewart Street, Suite 800
Seattle, WA 98100
Attention:
Phone:
Fax Number:

17.2 Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, facsimile confirmation, or the Federal Express or U.S. Postal Service receipt, and in the event of attempted delivery during normal business hours at the proper address by an agent of a party or by Federal Express or the U.S. Postal Service but refused acceptance, shall be deemed to have been given upon attempted delivery, as evidenced by an affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused.

18. GOVERNING LAW JURISDICTION AND VENUE

18.1 This Agreement shall be governed by the laws of the State of Washington.

18.2 In the event that litigation is commenced by either party, the Parties to this Agreement agree that jurisdiction shall lie solely in the King County Superior Court, with venue at Seattle, King County, Washington.

19. TIME OF THE ESSENCE; CALCULATION OF TIME PERIODS

19.1 Time is of the essence of this Agreement and of all acts required to be done and performed by either of the parties hereto, including but not limited to the proper delivery of all documents, and the tender of all amounts of money, required by the terms hereof to be delivered or paid, respectively. Any extension of time granted for performance of any obligation to this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement.

19.2 Unless otherwise specified, in computing any period described in this Agreement, the day of the act or event after which the designated period begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday, or legal holiday. The final day of any such period shall be deemed to end at 5:00 p.m., Pacific Time.

20. COUNTERPARTS

This Agreement may be executed in counterparts by facsimile and by electronic signatures. If so, only when counterparts are delivered to the Escrow Agent, with the signatures of each one of the parties constituting the Purchaser and Seller, shall it be deemed a binding agreement.

21. WAIVER

21.1 Any waiver under this Agreement must be in writing. A waiver of any right or remedy in the event of a default shall not constitute a waiver of such right or remedy in the event of any subsequent default.

21.2 No writing other than a document signed by the General Manager/CEO of the Seattle Public Utilities or designee specifically so stating that it is a waiver shall constitute a waiver by Seller of any breach or default by Purchaser, nor shall such a writing waive Purchaser's failure to fully comply with any other term or condition of this Agreement, irrespective of any knowledge that any officer or employee of Seller may have of such breach, default, or noncompliance.

22. ENTIRE AGREEMENT; MODIFICATIONS; NEGOTIATED UNDERSTANDING

This Agreement, including all exhibits (which by this reference are incorporated herein), represents the entire agreement of the Parties with respect to the Property and all agreements, oral or written, entered prior to the date hereof are revoked and superseded by this Agreement. This Agreement may not be changed, amended, modified, or rescinded except in writing signed by both Parties and any attempt at oral modification of this Agreement shall be of no effect.

23. NEGOTIATED AGREEMENT

23.1 The Parties to this Agreement acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

24. AGREEMENT APPROVAL

24.1 The property sale is contingent upon City Council approval.

24.2 Purchaser's obligation to close the transaction contemplated hereby is contingent upon Purchaser obtaining approval from the Board of Directors for Seattle Public Schools (the "Purchaser's Board"); it being understood that, if the Purchaser's Board affirmatively declines to approve this Agreement and the transactions contemplated hereby, Purchaser shall notify Seller thereof in writing prior to the date which is three (3) Business Days prior to the Closing Date whereupon this Agreement shall be terminated.

25. SURVIVAL

All warranties, representations, covenants, obligations, and agreements contained in or arising out of this Agreement or in any certificates or other documents required to be furnished hereunder, shall survive the Closing. All warranties and representations shall be effective regardless of any investigation made or which could have been made.

IN WITNESS, WHEREOF, Seller and Purchaser have caused this Agreement to be executed by officers thereunto duly authorized as of the day and year first above written, which shall be the date that the last of Seller and Purchaser shall have executed this Agreement.

SEATTLE PUBLIC UTILITIES

By: 

Printed Name: ANDREW LEE

Title: General Manager/CEO

P & S Agreement - Page 8 of 14

SEATTLE SCHOOL DISTRICT #1

By: 

Printed Name: Fred Podesta

Title: Interim Dept. Supt.

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

On this 21 day of March, 2023, before me, personally appeared Amber Lee to me known to be the representative, who executed the foregoing agreement, and acknowledged the same to be the free and voluntary act and deed of the General Manager/CEO of the Seattle Public Utilities for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said agreement.

GIVEN under my hand and official seal the day and year written above in this certificate.



(Signature) _____

Shaida Adata

SHAIDA ADATIA
(Printed or typed name of Notary Public)

Notary Public in and for the State of Washington,

Residing at Kent

My appointment expires 3/9/26

STATE OF WASHINGTON)

) ss.

COUNTY OF KING)

On this 13th day of March, 2023, before me, personally appeared Fred Podesta, to me known to be the representative of the Seattle School District #1, who executed the foregoing agreement, and acknowledged the same to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said agreement.

WITNESS my hand and official seal hereto affixed the day and year written above in this certificate.



(Signature) _____

Julie Martin

(Printed or typed name of Notary Public)

Notary Public in and for the State of Washington,

Residing at Seattle

My appointment expires 5/26/23

EXHIBIT A
Legal Description

LEGAL DESCRIPTION:

PORTION OF GOVERNMENT LOT 3, SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 24 NORTH,
RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SOUTH HENDERSON STREET AND THE
WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE WEST ALONG SAID NORTH LINE 100 FEET;
THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH 100 FEET;
THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTH HENDERSON STREET 100 FEET TO THE
WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE SOUTHERLY ALONG SAID WESTERLY LINE 100 FEET TO THE BEGINNING.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Tax Parcel Number: 352404-9192

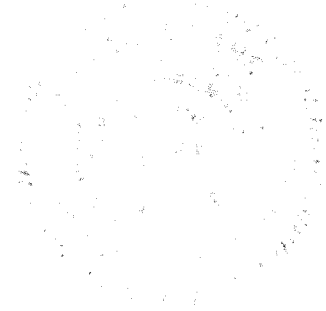


EXHIBIT B

Recording Requested by
When Recorded Mail To:

Warranty Deed

Reference #s of Document Released or Assigned: None

Grantor: City of Seattle, Seattle Public Utilities

Grantee: Seattle School District #1

Legal Description: PORTION OF GOVERNMENT LOT 3, SOUTHWEST QUARTER OF SECTION 35,
TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., KING COUNTY

Assessor's Tax Parcel ID#: 352404-9192

The GRANTOR, the **City of Seattle, Seattle Public Utilities**, a Washington State municipal corporation, for and in consideration of _____, hereby conveys and deeds to GRANTEE, **Seattle School District #1**, a corporation of the state of Washington, all interest in the real property described as follows:

PORTION OF GOVERNMENT LOT 3, SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SOUTH HENDERSON STREET AND THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE WEST ALONG SAID NORTH LINE 100 FEET;
THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH 100 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTH HENDERSON STREET 100 FEET TO THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE SOUTHERLY ALONG SAID WESTERLY LINE 100 FEET TO THE BEGINNING.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

situated in King County, Washington together with all after-acquired title of the **GRANTOR** therein.

Subject to all existing easements, covenants, restrictions, conditions, reservations, exceptions and agreements of record or otherwise.

COVENANT REGARDING ENVIRONMENTAL CONDITIONS

The Property is conveyed AS-IS, WHERE-IS, WITH-ALL-FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR THE GRANTEE'S INTENDED USES AND PURPOSES. Grantee acknowledges that adverse physical, economic or other conditions (including without limitation, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the Property and assumes Grantor's responsibility for all environmental conditions of the Property, known or unknown, including but not limited to responsibility, if any, for investigation, removal or remediation actions relating

to the presence, release or threatened release of any Hazardous Substance or other environmental contamination relating to the Property. Grantee also releases, covenants not to sue, and shall indemnify, defend, and hold Grantor and its past, present and future officials, employees, and agents, harmless from and against any and all claims, demands, penalties, fees, damages, losses, expenses (including but not limited to fees and costs of regulatory agencies, attorneys, contractors and consultants, and liabilities arising out of, or in any way connected with, the condition of the Property including but not limited to any alleged or actual past, present or future presence, release or threatened release of any Hazardous Substance in, on, under or emanating from the Property, or any portion thereof or improvement thereon, from any cause whatsoever; it being intended that Grantee shall so indemnify Grantor and such personnel without regard to any fault or responsibility of Grantor or Grantee. The obligation to complete all environmental investigation, removal or remediation of the Property and the acknowledgements, releases and covenants herein touch and concern the Property, restrict the use of the Property, and are intended to run with the land and bind Grantee and Grantee's heirs, successors, and assigns, and inure to the benefit of Grantor and its successors and assigns.

For purposes of this Covenant, the term "Hazardous Substance" shall mean petroleum products and compounds containing them; lead, flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; asbestos or asbestos-containing materials in any friable form; underground or above-ground storage tanks; and any substance or material that is now or hereafter becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to environmental protection, contamination or cleanup.

Grantee's release and covenant not to sue shall include both claims by Grantee against Grantor and any cross-claims, third-party claims or other claims against Grantor by Grantee based upon claims made against Grantee by any third parties. The obligation to indemnify and defend shall include, but not be limited to, any liability of Grantor to all federal, state or local regulatory agencies or other persons or entities for remedial action costs and natural resources damages claims. This Covenant means that Grantee accepts the Property "as-is, where-is and with-all-faults," and that Grantee assumes all responsibility of Grantor to investigate, remove and remediate any environmental conditions on the Property and has no recourse against Grantor or any of its officers, employees or agents for any claim or liability with respect to the Property.

This Covenant shall apply regardless of whether Grantee is culpable, negligent or in violation of any law, ordinance, rule, or regulation. This Covenant is not intended, nor shall it, release, discharge or affect any rights or causes of action that Grantor or Grantee may have against any other person or entity, except as otherwise expressly stated herein, and each of the parties reserves all such rights including, but not limited to, claims for contribution or cost recovery relating to any Hazardous Substance in, on, under or emanating from the Property.

Executed this ____ day of _____, 2023.

Seattle Public Utilities

By: _____

ACCEPTANCE

I, _____, duly authorized representative of _____, certify that the interest in real property conveyed to _____, a _____ by this **Warranty Deed** dated the date first above written, is hereby accepted on behalf of _____.

By: _____

Print Name: _____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Andrew Lee known to me (or proved to me on the basis of satisfactory evidence) to be the General Manager/CEO of **Seattle Public Utilities**, the municipal corporation named in and which executed the foregoing document, and stated on oath that he was authorized to execute the foregoing document on behalf of said municipal corporation and signed the same as the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing
at:

My commission expires: _____

(seal)

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2023, before me, personally appeared
_____, to me known to be the

_____ of the _____, who executed the foregoing
instrument, and acknowledged the same to be the free and voluntary act and deed of said corporation for the uses and
purposes therein mentioned, and on oath stated that _____ was authorized to execute such document for and on behalf
of said corporation. WITNESS my hand and official seal hereto affixed the day and year written above in this
certificate.

(Signature) _____

(Printed or typed name of Notary Public)
Notary Public in and for the State of Washington,
residing at _____
My appointment expires _____

(seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Seattle Public Utilities Finance and Administrative Services	Bob Hennessey, SPU Karen Gruen, FAS	Akshay Ivengar for SPU Lorine Cheung for FAS

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to Seattle Public Utilities; declaring property at 8817 Seward Park Avenue S, commonly known as the Former Henderson St Pumping Plant, as surplus to the City's needs; authorizing the sale of this real property as a direct sale to Seattle Public Schools; authorizing the General Manager and CEO of Seattle Public Utilities to execute all documents for the sale of the property; designating the proceeds from the sale; and ratifying and confirming certain prior acts.

Summary and Background of the Legislation:

Seattle Public Schools (SPS) approached Seattle Public Utilities (SPU) in December 2021 to purchase an SPU-owned property at 8817 Seward Park Ave S, as part of a multi-year project to rebuild Rainier Beach High School (RBHS). The SPU property is located on the city block parcel where Rainier Beach High School is located.

The 10,000 SF property was originally acquired by a predecessor to SPU in 1919 to construct the Henderson Street Pump Station. The Henderson Street Pump Station has since been removed, and the only remaining SPU infrastructure on the site is a maintenance hole. The real property is no longer needed and SPU has declared the property to be excess to their needs.

Seattle Public Schools has agreed to pay the appraised value of \$1.25 million. SPU and SPS have signed a Purchase and Sale Agreement outlining the terms of the sale, contingent on City and SPS Board approval.

The rebuilding of RBHS is a \$238 million project, with funding from several levies, and with considerable community input. As shown on the map(s) attached, the SPU-owned site is indistinguishable from the school campus at RBHS. In conjunction with a property sale, SPU would transfer the SPU-owned assets (a maintenance hole) on the site to SPS.

As designed, the SPU-owned parcel would become the main walkway entrance to the school campus from the southeast.

Council must approve the surplusing of all City-owned real property via ordinance prior to sale or transfer. The Department of Finance and Administrative Services (FAS) manages the evaluation process for disposal of City property, in accordance with Resolution 31837.

As part of the disposition procedures, FAS has performed internal and external notice of the Excess Property and the Preliminary Recommendation to sell to Seattle Public Schools as described in the attached Final Report.

In addition, FAS has consulted Seattle Public Schools and the Office of Housing (OH) on the suitability of the site for an affordable housing development, pursuant to the primary policy priority stated in Resolution 31837. The OH analysis and review is included in the Final Report.

SPS has indicated that an affordable housing development would require redesign of the RBHS project (adding cost and time). SPS anticipates community concern over a proposal to develop affordable housing at this site, due to the proximity to the school campus, and the loss of sightlines onto the campus.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☐ Yes ☒ No

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
Drainage and Wastewater Fund (44010)	SPU	Sale of Property	\$1,250,000	\$0
TOTAL			\$1,250,000	

Revenue/Reimbursement Notes:

One-time revenues from the sale of an asset belonging to the Drainage and Wastewater Fund.

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

No.

Are there financial costs or other impacts of *not* implementing the legislation?

Yes, continued maintenance and administrative costs of the property.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

No.

b. Is a public hearing required for this legislation?

No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Yes.

d. Does this legislation affect a piece of property?

This legislation affects a piece of property. A site plan is attached.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

The purpose of this legislation is to authorize the sale of a parcel of property to Seattle Public Schools. Seattle Public Schools has a multi-year project to rebuild Rainier Beach High School.

Rainier Beach High School was built in 1960. In 2021-2022 it served 840 students, with 96% of the population as minority students and 73% low-income households. The school provides education, including the 13th-Year Promise Scholarship for graduating seniors. It also provides cultural and recreational activities for youth in the Rainier Valley.

FAS partnered with the Department of Neighborhoods to distribute translated flyers (in Amharic, Somali, Vietnamese, Spanish, and Chinese) to the below community organizations regarding the planned sale with a contact for inquiries or comments. No external inquiries or comments have been received by FAS.

- Rainier Beach Action Coalition (RBAC)
- Ethiopian Community Seattle
- Somali Community Seattle
- Rainier Beach Link2Lake
- Washington Park Apts Management
- Seattle Housing Authority (SHA)
- Fathers and Sons Together (FAST)
- CHAMPS Resource Service Center
- Rainier Beach Community Club
- Valley Cities
- Seattle Neighborhood Group
- Northwest Tap

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

The Rainier Beach High School will be rebuilt according to current City required building codes. Systems that were installed in 1960 will be new systems that are based upon current code and emissions requirements.

- 2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

This legislation is not expected to have an impact on the Seattle’s resiliency to climate change, aside from the redevelopment and decarbonization efforts described above.

- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?**

This legislation will reduce maintenance and administrative costs for SPU and help SPS serve its primary function educating students in Seattle.

Summary Attachments:

Summary Attachment 1 – Former Henderson St Pumping Plant Site Map

Summary Attachment 2 – Final Recommendation Report on the SPU Former Henderson Pump Station

Former Henderson Street Pumping Station



Final Recommendation Report
On Reuse and Disposal of the Seattle Public Utilities Excess Property
PMA 3947 Former Henderson St Pumping Plant
April 24, 2023

Purpose of Final Report

In response to a City of Seattle Jurisdictional Department identifying a property as “Excess” to their needs, the Real Estate Services (RES) section of the Department of Finance and Administrative Services (FAS) initiates a process to review and evaluate various options for the property. RES prepares a report titled “Final Recommendation Report on the Reuse and Disposal of Excess Property”, which documents FAS’ analysis and recommendations. This report is prepared in accordance with City of Seattle Council Resolution [29799](#), as modified by Resolution [30862](#) and [31837](#).

Executive Recommendation

FAS recommends that the property to be offered for sale to the Seattle Public Schools (SPS) through a negotiated sale at fair market value. If a negotiated sale with Seattle Public Schools is not completed, then property should be retained by Seattle Public Utilities.

Background Information

The property is under the jurisdiction of Seattle Public Utilities (SPU). This property is located at 8817 Seward Park Avenue S, on the northwest corner of the intersection of S Henderson St and Seward Park Ave S. (See Appendix A for a detailed property description). The City originally acquired the property in 1919, and constructed the Henderson Street Pumping Station, as part of the Henderson Street Trunk Sewer Project completed in 1937. There is a reference to this pump station “Unit 7” of the Henderson Street Trunk Sewer project in the 1937 Annual Report of the City Engineering Department as provided below:

Units 2 and 8, and 3, 4, 6 and 7 of the Henderson Street Trunk Sewer were completed in 1937. Considerable re-search and ground work and planning has been done on the final pumping plant and sewage disposal works. Contracts have been let for the construction of Unit No. 9, which is a 60" Reinforced Concrete Sewer on East Marginal Way, and a contract has been let for the filling of a seventeen acre site between East Marginal Way and Duwamish Waterway, for Unit No. 10, which comprises the final pumping plant and sewage disposal works.

The Henderson Street project has been financed in part by City Sewer Bonds and a 45% Grant from the Public Works Administration.

The Henderson Street Trunk Sewer Unit and Sewage Disposal Works are the final units of an extended program to divert all Seattle sewage from flowing into Lake Washington. When these two units are completed, there will be no sanitary sewage emptying into Lake Washington, except that from house boats, neighboring towns, and, in general, all residents outside of the City of Seattle now living on the shores of the lake. Seattle has thus set the example for our neighboring cities and has set a precedent for the State Department of Health to use in dealing with the other cities.

Seattle Public Utilities acquired this property as a transfer of jurisdiction from the Parks & Recreation Department in September of 1962 for sewer and drainage purposes in connection with the maintenance and operation of the Drainage and Wastewater (DWW) Henderson Street Pump Station. The pump station was decommissioned and deconstructed in the 1970s, as King County took over the responsibility for this function and replaced the infrastructure in a different location.

Seattle Public Schools (SPS) approached Seattle Public Utilities (SPU) in December 2021 to purchase this parcel as part of a multi-year project to rebuild Rainier Beach High School (RBHS). The SPU property is located on the city block parcel where Rainier Beach High School is located. Currently, SPU owns a maintenance hole on the site, and no other assets or infrastructure. There is also existing King County buried infrastructure on the subject parcel. The parcel has been through the SPU Excess Property review process and is approved by SPU for sale to SPS.

Reuse or Disposal Options Evaluation Guidelines

City of Seattle Resolution 31837, Section 1, requires the Executive to make its recommendation for the reuse or disposal of any property that is no longer needed by a department using the following Guidelines A-D.

Guideline A: Consistency

The analysis should consider the purpose for which the property was originally acquired, funding sources used to acquire the property, terms and conditions of original acquisition, the title or deed conveying the property, or any other contract or instrument by which the City is bound or to which the property is subject, and City, state or federal ordinances, statutes, and regulations.

Funding Sources: Funding for the “Henderson Street Trunk Sewers” was authorized under City Ordinance #64831 (<http://clerk.seattle.gov/search/ordinances/64831>) in 1934. The property is now an asset belonging to the Drainage and Wastewater Utility (Fund 44010).

Purpose for which property was acquired: To construct a pump station called the Henderson Street Pumping Station.

Deed or contractual restrictions: The property is not bound by any other contracts or instruments.

City, State or Federal Ordinance status and regulations including, Bond, grant or loan programs, State Accountancy Act, Payment of True and full value, Zoning and land use, Comprehensive Plan, and Other plans:

State Law requires government organizations receive fair market value for the disposal of surplus real property in most cases. The fair market value can be determined by an appraisal, or through an open competitive sales process. The City of Seattle incurs costs associated with the disposition process including staff time, public notice expenses and real estate transactions costs. Costs incurred by FAS Real Estate Services are covered by internal service fund rates allocated to other City departments.

The property is located in the Rainier Beach Residential Urban Village and is subject to zoning incentives and restrictions.

The property is currently zoned LR3 (M) which allows for a low-rise residential development.

Guideline B: Compatibility and Suitability

The recommendation should reflect an assessment of the potential for use of the property in support of adopted Neighborhood Plans; as or in support of low-income housing and/or affordable housing; in support of economic development; for park or open space; in support of Sound Transit Link Light Rail station area development; as or in support of childcare facilities; and in support of other priorities reflected in adopted City policies.

Neighborhood Plan: The property is located in the Rainier Beach Residential Urban Village. The property is close to Lake Washington and adjacent to Rainier Beach High School. The neighborhood includes buildings that vary in age and size, although predominantly the area includes retail, public parks and buildings, low-rise multifamily housing, and single-family housing. Development of this property is regulated by City Seattle zoning and development codes.

Housing and Economic Development: Sale of the property to Seattle Public Schools will allow SPS to consolidate this parcel with an adjacent parcel that they own. Subsequent development of the property by the Seattle Public Schools to rebuild Rainier Beach High School will increase economic activity in the City.

The Office of Housing has indicated that this would not be a good site for an affordable housing development, given the plan for the surrounding School property, noise levels, lines of sight, and the size and zoning which limit the number of units that could be built on this parcel.

Nearby City owned property: The property is located on a corner site and is otherwise surrounded by property owned by the SPS. There are no City-owned properties which are contiguous with this parcel. Be'er Sheva Park is owned by the Parks Department and is located to the east of the site, across Seward Park Ave S. A map showing nearby City properties is included with the attached Excess Property Description.

Other City Uses: In January 2023, an Excess Property Notice for this property was circulated to City of Seattle Departments. City Departments were asked to evaluate the property for current or future city uses of the property. FAS/RES received questions from SDOT on catchment placement, and from the Office of Planning and Community Development on alternative community proposals. Both queries were addressed and have been resolved.

In addition, FAS consulted SPS and the Office of Housing (OH) on the suitability of the site for an affordable housing development:

SPS has indicated that this use would require redesign of the RBHS project (adding cost and time) due to the proximity to the school campus, and SPS does not wish to suffer the loss of sightlines onto the campus.

OH believes this site would be a poor fit for an affordable housing development due to the ambient noise levels, surrounding parking areas, and the low unit potential given the site size and zoning.

Other Agencies Uses: Internal Excess Property Notices for this property were circulated in January 2023 to assess other agencies' interest and inform the public of the pending sale. The Seattle Public Schools has expressed an interest in purchasing the property at fair market value for use in their project to rebuild Rainier Beach High School.

Range of Options

The "Guiding principles for the Reuse and Disposal of Real Property" state, "it is the intent of the City to strategically utilize real property in order to further the City's goals and to avoid holding properties without an adopted municipal purpose." The options for disposition of this property include retention by the City for a public purpose, negotiated sale with a motivated purchaser, market sale, or through a request for proposal process.

Transfer of Jurisdiction to other City Department: No other City Department expressed a current or future need for the property.

Negotiated Sale: A negotiated sale is typically recommended when the selection of a particular purchaser has specific benefits to the City. In this case a negotiated sale with the Seattle Public Schools would provide a fair market value price for the property and would assist the Seattle Public Schools in acquiring property that is adjacent to property that they own. Acquiring the property is also integral to the re-construction project for Rainier Beach High School, which is already underway.

Sale through an open competitive process: A sale through a public competitive process would allow the market to determine the optimum price for the property.

Request for Proposal Process: This process is used when specific development goals are desired. The location of the Rainier Beach High School makes this an unlikely location for anything other than part of the school campus. Currently, there is no specific City goal for the future use of this property.

Guideline C: Other Factors

The recommendation should consider the highest and best use of the property, compatibility of the proposed use with the physical characteristics of the property and with surrounding uses, timing and term of the proposed use, appropriateness of the consideration to be received, unique attributes that make the property hard to replace, potential for consolidation with adjacent public property to accomplish future goals and objectives, conditions in the real estate market, and known environmental factors that may affect the value of the property.

Highest and Best Use: The Appraisal Institute defines highest and best use as, "The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, financially feasible and that results in the highest value." FAS' highest and best use analysis for the subject property determined the following:

- **Legally permissible:** The subject property is zoned LR3 (M) which is a low-rise residential zone.
- **Physically possible:** The property is level, rectangular, at grade with the fronting streets, and undeveloped, aside from an SPU maintenance hole. Future development is physically possible.
- **Financially feasible and maximally productive:** The property is no longer needed for Seattle Public Utilities operations. With future development, the property could be more productive.

The highest and best of the property could be for residential or institutional uses as allowed under the current zoning.

Compatibility with the physical characteristics and surrounding uses: The property is located on a corner site and is otherwise surrounded by SPS property (Rainier Beach High School). The range of options in the zoning code allow for primarily residential development options. However, given its stand-alone proximity adjacent to a school, assemblage with the institutional use seems most appropriate.

Appropriateness of the consideration: Sale of the property at fair market value through a negotiated sale or competitive sale process will result in the City receiving the fair market value of the property.

Unique Attributes: The property has an SPU maintenance hole on the site, which is unique in that it was built for a specific use that is no longer needed.

Potential for Consolidation with adjacent public property: The property could be consolidated with adjacent SPS property. This aligns with the City's policy priorities and supports SPS and the reconstruction of Rainier Beach High School.

Conditions in the real estate market: The real estate market in the City of Seattle remains stable, and there has been a great demand for new development, particularly for housing, although as stated, the City's Office of Housing department has concluded that this parcel is not suitable for housing. Existing school infrastructure requires continued investment such as the Rainier Beach High School's capital project to rebuild the school. SPS has requested to purchase the parcel as part of its capital improvements in its facility and at a purchase price based on a current market appraisal.

Known environmental factors: No environmental factors known by SPU or SPS at this time, no review has been conducted.

Guideline D: Sale

The recommendation should evaluate the potential for selling the property to non-City public entities and to members of the general public.

Potential for Use by Non-City Public Entities: The recommendation is based on the request for use by non-City public entity Seattle Public Schools. The Seattle Public Schools has requested to purchase the property. This parcel is needed for SPS to complete the currently designed reconstruction project for Rainier Beach High School, which is already underway.

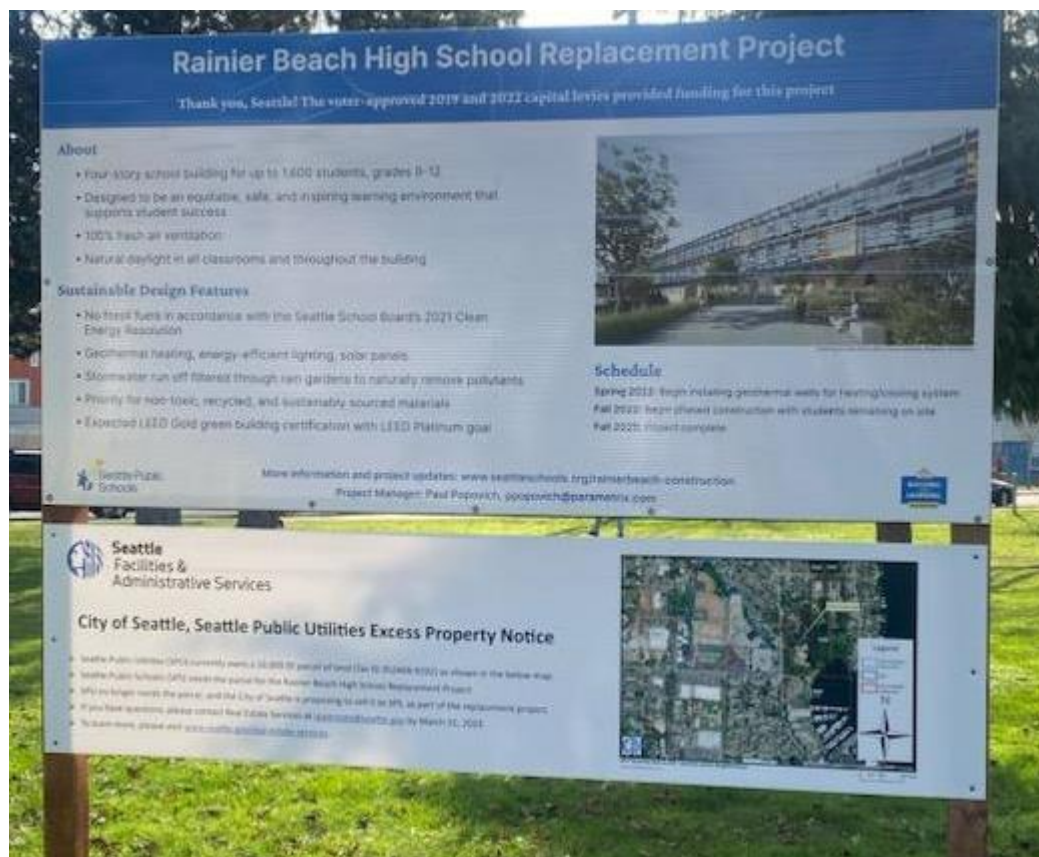
Public Involvement: As of the date of this report, no responses or comments from the public regarding this property were received by FAS.

FAS Real Estate Services has performed the following outreach activities:

- RES sent internal notification to the Real Estate Oversight Committee department members, in addition to several other departments which may be impacted by this transaction (including the Mayor's Office, the City Budget Office, Department of Education

and Early Learning, Seattle Public Schools, King County). RES received inquiries from OPCD and from SDOT, as follows:

- SDOT inquired about drainage infrastructure in the Right of Way, and SPU confirmed there is none.
- OPCD inquired about community groups and alternate uses, but upon seeing the site location and future use with Seattle Public Schools agreed that alternate uses by the community were not viable.
- Seattle Public Schools posted information about the proposed sale on the Seattle Public Schools website and the Rainier Beach High School project website.
- FAS Real Estate Services posted information about the proposed sale on the City of Seattle website.
- FAS RES and SPS together printed and posted a large sign on the site with contact information and notice on February 15, 2023 (as shown below). This sign allowed comments to be sent through March 31, 2023. No comments were received.
- The Office of Housing analyzed the property and has concluded this property would be a poor fit for an affordable housing development. For full analysis, see Appendix E.



- On February 13th, 2023, the Department of Neighborhoods (DON) Community Engagement Coordinator for SE Seattle emailed an English public notice flier to the below community groups with contact information for the proposal:
 - *Rainier Beach Action Coalition (RBAC)*
 - *Ethiopian Community Seattle*
 - *Somali Community Seattle*
 - *Rainier Beach Link2Lake*
 - *Washington Park Apts Management*
 - *Seattle Housing Authority (SHA)*
 - *Fathers and Sons Together (FAST)*
 - *CHAMPS Resource Service Center*
 - *Rainier Beach Community Club*
 - *Valley Cities*
 - *Seattle Neighborhood Group*
 - *Northwest Tap*
- And on March 6th, 2023, the DON Community Engagement Coordinator for SE Seattle emailed the same flier, translated into:
 - Amharic
 - Somali
 - Vietnamese
 - Spanish
 - Chinese (Simplified)
 - Chinese (Traditional)

On March 3rd, 2023, Real Estate Services produced the Preliminary Report for the Reuse and Disposal of this SPU property. This report was posted on the Real Estate Services website and emailed to all internal and external commenters for a 30-day period. No additional comments were received in this time.

Threshold Determination

The Disposition Procedures require FAS assess the complexity of the issues on each excess property following the initial round of public involvement. The purpose of this analysis is to structure the extent of additional public input that should be obtained prior to forwarding a recommendation to the City Council.

Appendix B is the Property Review Process Determination Form prepared for PMA 3947, the former Henderson Street Pumping Station. The disposition of this property is determined to be a “simple” transaction. No additional public involvement is required other than the notice process described below.

Next Steps

FAS and SPU have prepared legislation for the City Council to authorize the disposition of this property, following the recommendations of this Final Report.

Pursuant to the guidelines in Resolution 31837, a public hearing is not required for the sale of this property as it is a “Simple Disposition”. However, the City Council may elect to have a public hearing. If so, FAS will provide a 14-day notice to any parties of record.

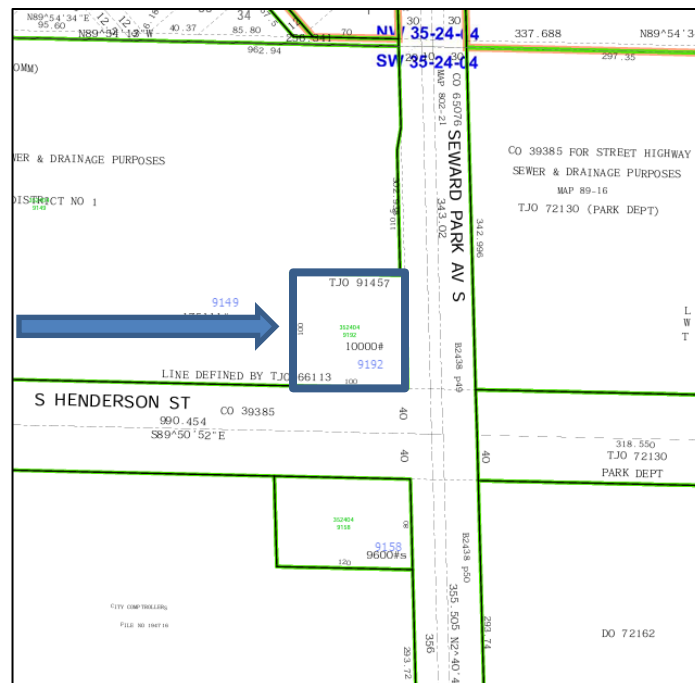
No Council decision will be made for at least 30 days following a notice of legislation and notice of public hearing is announced and sent to the parties of record list. FAS will continue to collect all comments regarding the property.

Appendix A: Excess Property Description from SPU
Former Henderson Street Pumping Station
July 28, 2022

Seattle Public Utilities as the Jurisdictional Department of this City owned property has identified the following information about this excess property.

PMA	Parcel Size	Parcel #	Address	Zoning	2022 Estimated value	Short Legal Description
3947	10,000	352404-9192	8817 Seward Park Ave S. 98118	LR3	\$1,250,000	POR GL 3 DAF - BEG NXN OF N LN OF S HENDERSON ST & WLY LN OF SEWARD PARK AVE S TH W ALG SD N LN 100 FT TH NLY PLW WLY LN SD AVE 100 FT TH E PLW N LN SD ST 100 FT TO WLY LN SD AVE TH SLY ALG SD WLY LN 100 FT TO POB PER SEATTLE ORD# 91457

Map:



History: The City originally acquired the property to construct a pump station called the Henderson Street Pumping Station. This station was installed as part of the Henderson Street Trunk Sewer Project completed in 1937. The station was identified as Pump Unit No. 7. Seattle Public Utilities acquired this property as a transfer of jurisdiction from the Parks & Recreation Department in September of 1962 for sewer and drainage purposes in connection with the maintenance and operation of the DWW Henderson Street Pump Station. The existing infrastructure on the site includes an SPU-Drainage and Wastewater maintenance hole, and King County buried infrastructure. The property parcel has completed the SPU Excess Property review process and is approved by SPU for sale to SPS.

Ordinance(s):

- a. Ordinance 39385; authorizing condemnation of land for public purposes.
- b. Ordinance 66113; authorizes placing the property under the jurisdiction and control of the Parks Department.
- c. Ordinance 91457; TOJ from the Park Department to the Sewer Utility.

Acquisition Fund Source: funding for the “Henderson Street Trunk Sewers” was authorized under City Ordinance #64831 (<http://clerk.seattle.gov/search/ordinances/64831>) in 1934.

The Property is now an asset belonging to the Drainage and Wastewater Fund (44010).

Destination of funds upon sale: Drainage and Wastewater Fund (44010).

Current easements, covenants and restrictions: State Law and legal precedent require Utilities to receive fair market value for the disposal of surplus real property. There are currently no easements on this property.

Recommended easements, covenants and restrictions upon Transfer: None.

Potential problems with property and possible measures to mitigate their recurrence:

None identified.

Building and Property Description

Use: The site is currently undeveloped and includes a grass covered lawn and four mature trees. Within the parcel is a King County Sewer mainline and an SPU Maintenance Hole (MH).

Legal Description

PORTION OF GOVERNMENT LOT 3, SECTION 35, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SOUTH HENDERSON STREET AND THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE WEST ALONG SAID NORTH LINE 100 FEET;
THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH 100 FEET;
THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTH HENDERSON STREET 100 FEET TO THE WESTERLY LINE OF SEWARD PARK AVENUE SOUTH;
THENCE SOUTHERLY ALONG SAID WESTERLY LINE 100 FEET TO THE BEGINNING.

Appendix B

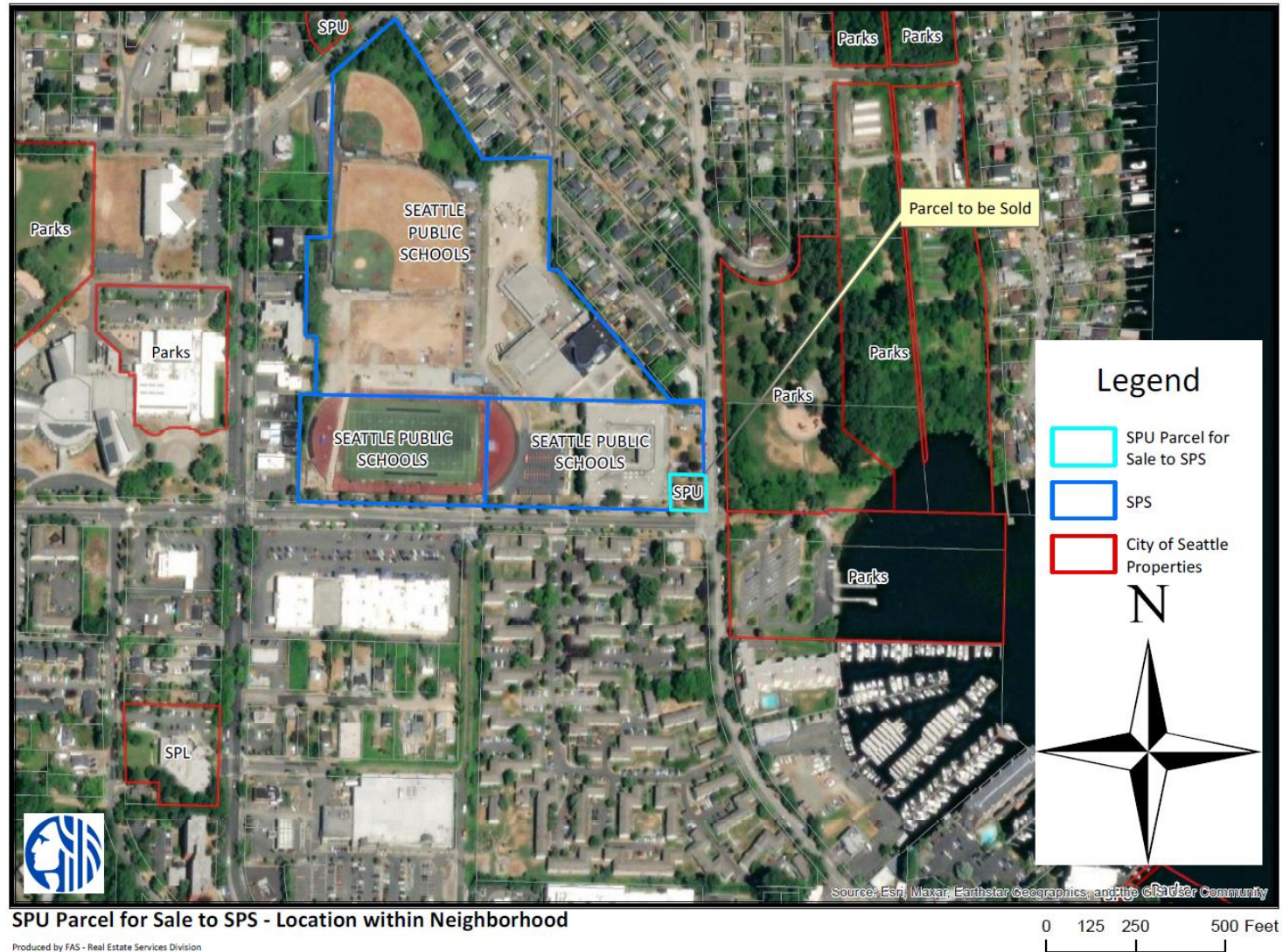
PROPERTY REVIEW PROCESS DETERMINATION FORM0			
Property Name:	Henderson St Pumping Plant		
Address:	8817 Seward Park Avenue S 98105		
PMA ID:	PMA. 3947	Parcels No.	352404-9192
Dept./Dept ID:	SPU	Current Use:	Landscape Maintenance
Area (Sq. Ft.):	10,000 sq. ft.	Zoning:	LR3
Est. Value:	\$ 1,250,000	Assessed Value:	\$ NA
PROPOSED USES AND RECOMMENDED USE			
Department/Governmental Agencies: Seattle Public Schools		Proposed Use: Rebuild Rainier Beach High School.	
Other Parties wishing to acquire:		Proposed Use:	
None		N/A	
RES'S RECOMMENDED USE: Sell through negotiated sale to the SPS or if a sale is not completed, then retain by Seattle Public Utilities.			
PROPERTY REVIEW PROCESS DETERMINATION (circle appropriate response)			
1.) Is more than one City Dept. /Public Agency wishing to acquire?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	15	
2.) Are there any pending community proposals for Reuse/ Disposal?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	15	
3.) Have individuals, community groups and/or other interested parties contacted the City regarding any of the proposed options?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	15	
4.) Will consideration be other than cash?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	10	
5.) Is Sale or Trade to a private party being recommended?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	25	
6.) Will the proposed use require changes in zoning/other regulations?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	20	
7.) Is the estimated Fair Market Value between \$500,000-\$2,000,000?	No / <input checked="" type="radio"/> Yes	10	
8.) Is the estimated Fair Market Value over \$2,000,000?	<input checked="" type="radio"/> No / <input type="radio"/> Yes	45	
Total Number of Points Awarded for "Yes" Responses:			10
Property Classification for purposes of Disposal review: <input checked="" type="radio"/> Simple <input type="radio"/> Complex (a score of 45+ points result results in a "simple" classification)			
Signature:	Department: FAS	Date: March 1, 2023	

Appendix C
Parties of Record

Name	Email	Address/Company	Phone
None			

Appendix D Maps:

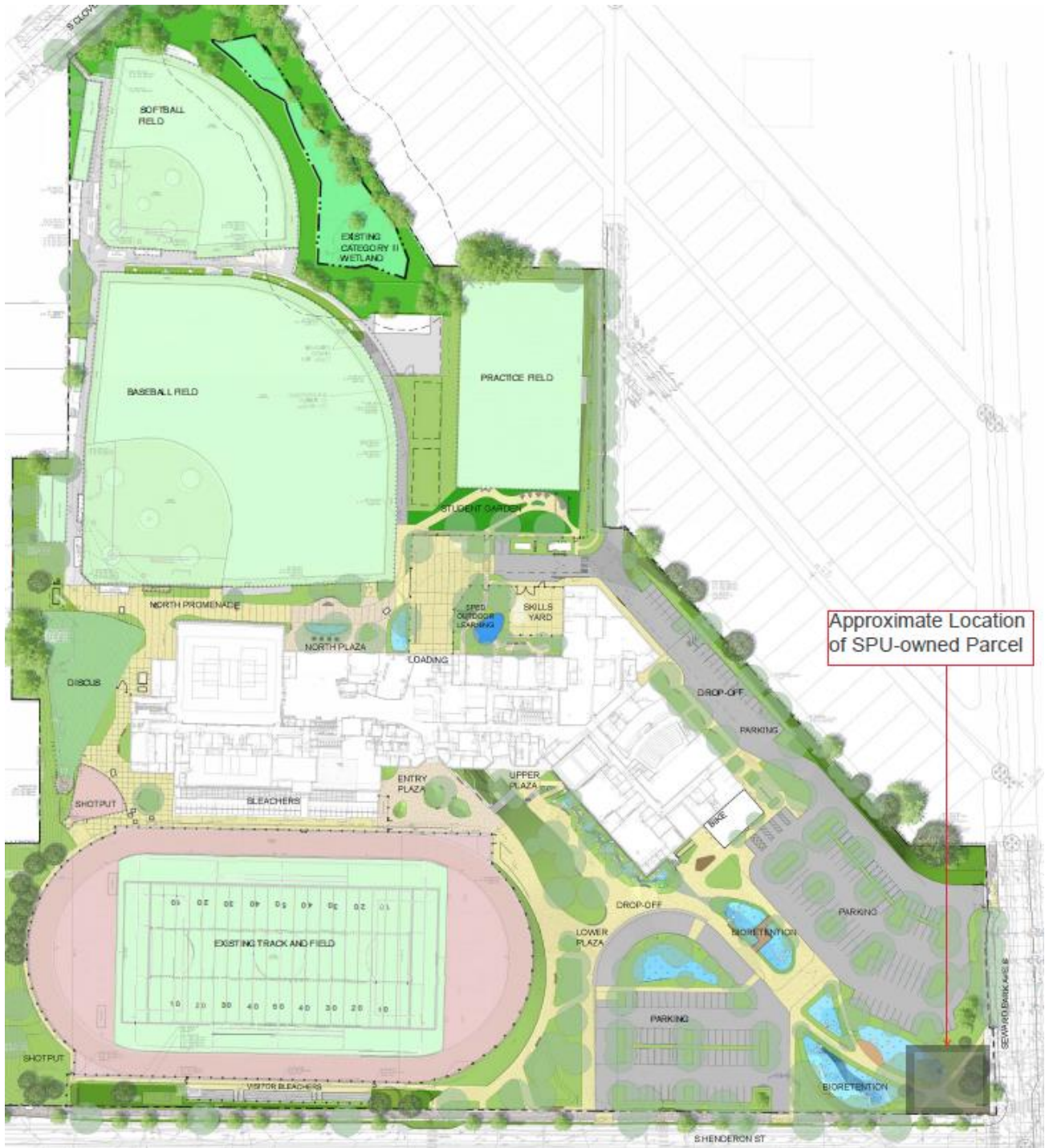
SPU Parcel in Relation to Neighborhood



Parcel Location in Relation to Existing Rainier Beach High School Facility:

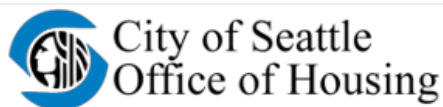


Rainier Beach High School Future Design



Appendix E

Office of Housing Analysis of Property



Memo

Date: March 24, 2023

To: Karen Gruen, FAS

From: Jessica Gomez, Office of Housing
Charles Mason, Office of Housing

RE: OH's Response to SPU Excess Property at 8817 Seward Park Avenue S/PMA 3947

Summary of OH Analysis:

Office of Housing (OH) received a request to review the Seattle Public Utilities (SPU) Excess Property at 8817 Seward Park Avenue S. After analyzing the property, OH has concluded that the property is not suitable for an affordable residential development. The property is located at the northwest corner of Seward Park Avenue South and South Henderson Street, a busy street corner between Rainier Beach High School and Beer Sheva Park. The property is at the current front entrance of the High School and, from a public perception, is seen as part of the high school campus. The high school is currently undergoing major renovations, after which it is planned that adjacent uses will be parking for the high school, a bioretention pond, and a pathway between the new high school and the Seward Park Avenue/S. Henderson Street intersection and the adjacent park.

This location would be a poor fit for a low to mid-rise development, due to high ambient noise levels, and the future plans which will surround the site by parking lots and pathways to the high school. In addition, the combination of size of the site (10,000 SF) and zoning (LR3 M) would limit the size of the development.

Analysis of Basic Residential Development Criteria:

Current Use, and Size and Site Configuration:

The 10,000 square foot site is directly adjacent to the Rainier Beach High School (RBHS) and is landscaped as a portion of the school lawn. The site is square and is on the corner of the southeast side of Rainier Beach High School. The site is located in the Rainier Valley, known as the Rainier Beach Residential Urban Village and is subject to zoning incentives and restrictions. Surrounding uses in the immediate area of the property include the high school, retail, parks, multi-family residential, and single-family housing.

Zoning or Rezone Opportunities:

The site is currently zoned LR3 (M), a low-rise residential multi-family zone, that allows for development of smaller parcels of land.

Topography: The site is level and is at-grade with the fronting streets.

Presence of Contamination/Hazardous Materials: No environmental factors known by SPU or Seattle Public Schools (SPS) at this time; no review has been conducted by OH.

Infrastructure: OH understands that there is a maintenance hole present on the site, owned by SPU, and some underground Drainage and Wastewater piping, owned by King County and SPS. No other known infrastructure is present on the site.

Presence of Existing City Light or Seattle Public Utility Facilities: OH understands that the site has one SPU maintenance hole installed on it which is related to the decommissioned Henderson Street Pumping Station.

Existing Improvements and Condition of Existing Improvements: No improvements are currently present on the site.

Location; Alignment with City Priorities: This site does not align with OH priorities for an affordable housing development. There are numerous large-scale affordable housing developments in close proximity to this site, including Lake Washington Apartments, a 16-acre development across the street, Polaris at Rainier Beach (a relatively new 300+ unit development nearby), and a proposed new development by Mt. Baker Housing called Via7. Limited affordable housing resources would be better spent on other sites.

Originating Fund Source / Restrictions on Use: OH has been informed that the City acquired the property in 1919, and constructed the Henderson Street Pumping Station, as a part of the Henderson Street Trunk Sewer project in 1937.

OH understands that the proceeds from the property sale will be deposited in the Seattle Public Utilities Drainage and Wastewater Fund (44010). This property is an asset of the utility.

Access: Travel to and from the site may be possible from Seward Park Avenue South and South Henderson Street. Access to the site is overall good.

Capacity to Achieve Other Policy Objectives – There are no significant policy objectives that would be met by pursuing residential development at this site. However, this site is well-situated to achieve policy objectives with the Seattle Public School District in the re-development of Rainier Beach High School, which is a \$238 million capital project, already underway. The Rainier Beach High School has been located here since 1960, with 840 students enrolled in the 2021-2022 school year. The total student enrollment is 96% minority students and 73% are economically disadvantaged. The school provides a range of educational, cultural, and recreational activities for youth, in addition to the 13th Year Promise Scholarship for graduating seniors. This site is an important part of the campus redevelopment, providing a clear and highly visible connection between the new high school campus and the adjacent park and nearby housing.

Overall, the property's location in proximity to Rainier Beach High School, the combination of the zoning and site size, and the competing use as part of the reconstructed Rainier Beach High School, make it a below average site for an affordable residential development.

SPU Former Henderson Street Pumping Station Disposition ORD

July 18th, 2023

Transportation and Utilities Committee

Presenters: Karen Gruen, FAS Real Estate Services Director
Mike Skutack, Seattle Public Schools, Rainier Beach HS Project Mgr

07/18/2023

Department of Finance and Administrative Services



City of Seattle

Purpose and Agenda

- Purpose:
 - City Council consideration of Council Bill 120611, which authorizes SPU to sell a parcel of real property to Seattle Public Schools.
- Agenda:
 - Description of SPU-owned excess property.
 - FAS disposition process and alternatives analyzed.
 - Seattle Public Schools' Rainier Beach HS redevelopment project.



Property Background

- First acquired property in 1919 to construct the Henderson Street Pumping Station, which was completed in 1937.
- Pumping station was decommissioned in the 1970's.
- Address: 8817 Seward Park Ave S.
- Zoned LR3 (M) which allows for a low-rise residential development.
- Appraised value of \$1.25 million.



[Workers on Henderson Street trunk sewer, 1937](#)
Source: Seattle Municipal Archives

Rainier Beach HS
Site: 936,540 SF (21.5 acres)



SPU Property
Proximity to
Rainier Beach HS

SPU Property
Site: 10,000 SF (0.23 acres)

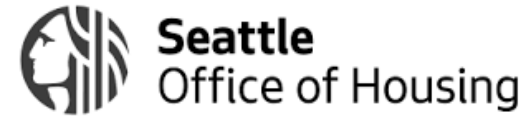
FAS Disposition Process

- Resolution 31837- Disposition Procedures
- Outreach:
 - FAS worked with DON SE Engagement Coordinator to notify 12 key Rainier Beach community organization with materials translated into seven different languages commonly spoken by the community.
 - FAS worked with Seattle Public Schools to post a physical sign on the property with information on the potential property sale.





FAS Disposition Process



- As part of the Disposition Procedures, the Office of Housing reviewed the property for affordable housing development.
- Conclusion: Not a good candidate site.
 - Proximity to the High School: surrounded by campus and parking.
 - Size of property and zoning: limited number of units.
 - Capacity to achieve other policy priorities: redevelopment of the Rainier Beach High School campus.

Sale Terms



- Fair Market Value: \$1.25 million as appraised.
 - Funds to the Drainage and Wastewater Fund (44010)
- Sale must close on or before October 2, 2023.
- Contingent Purchase and Sale Agreement.
 - Seattle Public Schools Board (Approved June 7, 2023)
 - Seattle City Council (Approval pending passage of this Ordinance)

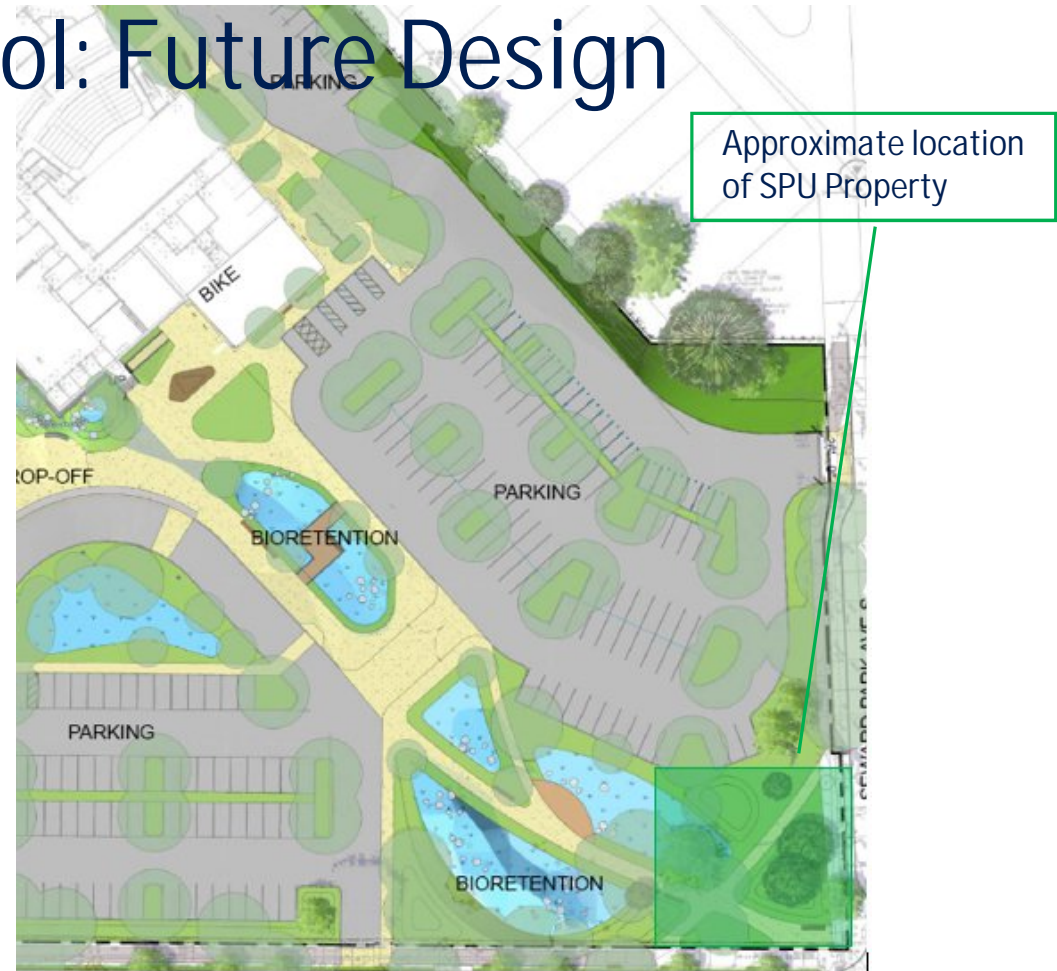
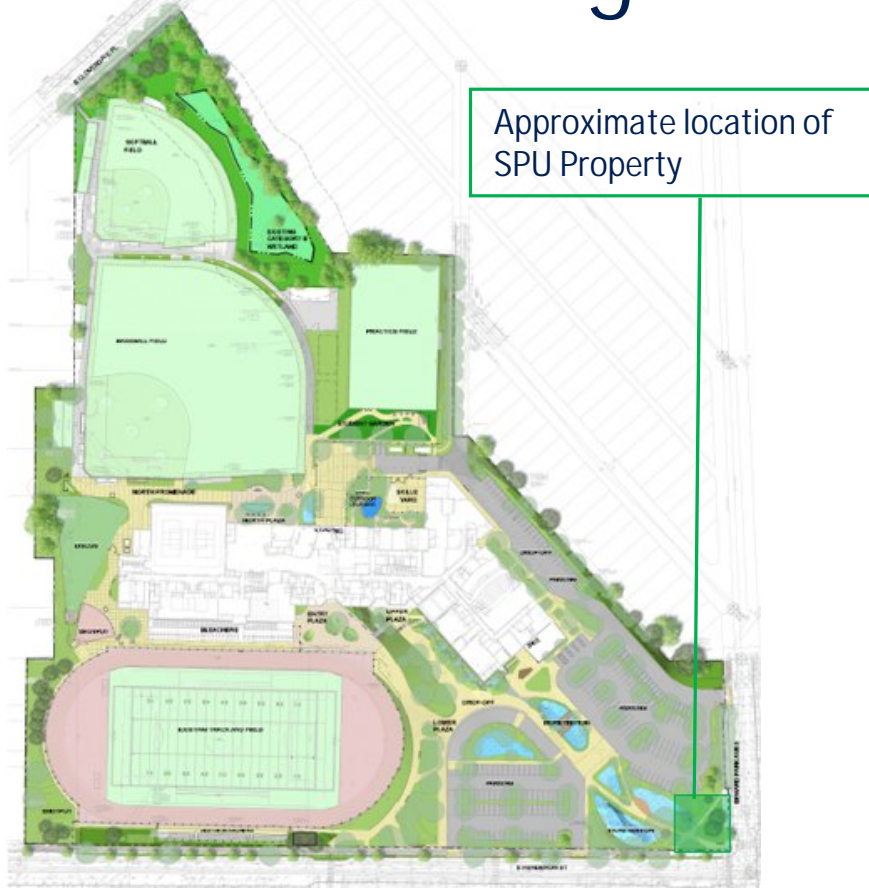


Rainier Beach High School Rebuild

- Seattle Public Schools: ~\$276 million project
 - Funding from two SPS voter-approved levies
 - Seattle Times Article (4/2023):
[New High School Could be a Crown Jewel for Rainier Beach](#)
- SPS has collaborated with SPU as the partner agency, to solicit purchasing of the property. This purchase is reflected in the design.



Rainier Beach High School: Future Design



Questions?



Future Design Rainier Beach HS Rendering
Source: Seattle Public Schools



Legislation Text

File #: CB 120612, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute contracts with Cedar Grove Composting, Inc. and Lenz Enterprises, Inc for organic waste processing services; and ratifying and confirming certain prior acts.

WHEREAS, Seattle Public Utilities issued a Request for Proposals and negotiated mutually agreed terms for organic waste processing services with the successful proposers, Cedar Grove, Inc, and Lenz Enterprises, Inc; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The General Manager and Chief Executive Officer of Seattle Public Utilities, or designee, is authorized to execute, for and on behalf of The City of Seattle, contracts with Cedar Grove, Inc., and Lenz Enterprises, Inc., for organic waste processing services, substantially in the form of the contracts attached to this ordinance as Attachment 1 and Attachment 2.

Section 2. Any act consistent with the authority of this ordinance taken after its passage and prior to its effective date is ratified and confirmed.

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

Passed by the City Council the _____ day of _____, 2023, and signed by
me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

Attachments:

Attachment 1 - Contract with Cedar Grove Composting, Inc.

Attachment 2 - Contract with Lenz Enterprises, Inc.

Organics Processing Contract

between
City of Seattle and
Cedar Grove Composting, Inc.

Contract # 22-083-A

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Organics Processing Contract

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ORGANICS PROCESSING CONTRACT

BETWEEN THE CITY OF SEATTLE

AND

CEDAR GROVE COMPOSTING, INC.

THIS ORGANICS PROCESSING CONTRACT is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington by and through Seattle Public Utilities (SPU)(“City”), and Cedar Grove Composting, Inc. (“Contractor”) to provide for transportation and processing of Organic Waste (as hereinafter defined) collected through the City’s residential, commercial and transfer station services.

The parties, in consideration of the promises, representations and warranties contained herein, agree as follows:

GENERAL PROVISIONS

Section 10. Purpose and Intent.

This Contract engages Cedar Grove Composting, Inc. to process Organic Waste into marketable products.

Section 20. Contract Term.

This Contract shall enter into force and effect upon its execution, with processing services beginning April 1, 2024, continuing for a six-year term, and ending on March 31, 2030. The City shall have the unilateral right to extend this Contract for up to three successive two-year periods, ending on March 31, 2032, or March 31, 2034, or March 31, 2036, by notifying the Contractor on or before June 30, 2029, or June 30, 2031, or June 30, 2033, respectively. If the City extends this Contract, the same terms, conditions, and method of payment in place at the time of extension shall apply during the extension period.

Section 30. Definitions.

In addition to capitalized terms that are defined elsewhere, the following definitions apply:

“City” means the City of Seattle.

“City Approved Compostable Bags” means bags approved by the City for collection in City services that meet ASTM D6400, ASTM D6868, or successor testing standards and are certified by a recognized third-party independent verification body as meeting the ASTM or successor standard specifications.

“City Approved Single-Use Food Service Ware” means single-use service ware and food packaging approved by the City for collection in City services that meet ASTM D6400, ASTM D6868, or successor testing standards and are certified by a recognized third-party independent verification body as meeting the ASTM or successor standard specifications.

“Contractor’s Share” means the portion of the City’s Organic Waste to be processed by the Contractor as described in Section 710.

“Contaminants” means any materials outside the definition of Organic Waste that are commingled in processing loads.

“Food Waste” means all food scraps, including, but not limited to, meat, dairy products, grease, and bones; paper that has been contaminated with food, fat, or grease; and soiled cardboard and paper, including but not limited to paper towels, paper plates, bags, tissue, and waxed paper.

“Organic Waste” includes Food Waste, Yard Waste, Wood Waste, City Approved Compostable Bags, City Approved Single-Use Food Service Ware, and other organic materials as mutually agreed by the City and the Contractor.

“Yard Waste” means plant material (e.g., leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.); organic debris commonly thrown away while maintaining yards and gardens, including sod and a small number of incidental rocks not over two (2) inches in diameter; and biodegradable waste approved for the Yard Waste programs by the City. Yard Waste does not include loose soils; Food Waste; plastics and synthetic fibers; Wood Waste; any wood or tree limbs over four (4) inches in diameter; human or animal excrement; animal carcasses; noxious weeds; and, soil or other materials contaminated with hazardous substances.

“Wood Waste” means unpainted and untreated pallets, lumber, lath and cedar shingles, and other clean wood delivered to the City transfer stations.

Section 40. City Responsibilities.

The City shall be responsible for:

1. Making payments contemplated by this Contract;
2. Inspecting Contractor performance;
3. Maintaining its collection contracts;
4. Delivering the Contractor’s Share of Organic Waste to the Contractor’s Processing Facilities;
5. In accordance with Section 740, disposing of Contaminants returned to the City’s disposal facilities;

6. Coordinating and implementing customer education and enforcement efforts with City–contracted collectors to minimize contamination; and
7. Monitoring loads of Organic Waste at City stations to minimize contamination.

Section 50. City Representations and Warranties.

The City represents and warrants to the Contractor as follows:

1. Organization and Qualification. The City is a municipal corporation and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
2. Authority.
 - a) The City has the authority to execute this Contract, to make the representations and warranties set forth in it and to perform the obligations of the City under this Contract in accordance with its terms.
 - b) This Contract has been validly executed and constitutes a valid and legally binding and enforceable obligation of the City.

Section 60. Contractor Responsibilities.

The Contractor shall be responsible for:

1. Furnishing all skill, labor, equipment, materials, supplies, technology, and utility services required for providing all services in accordance with this Contract;
2. All actions and activities of its subcontractors;
3. Maintaining and supplying all records and information required by this Contract;
4. Securing at Contractor's expense all governmental permits and licenses and required regulatory approvals (including those required by City ordinance);
5. Paying all applicable taxes;
6. Complying with all applicable laws and regulations, including without limitation relevant environmental and health laws, regulations, and standards related to organics processing and related end products;
7. Performing all work in a timely, thorough, and professional manner;
8. All wage increases for Contractor's employees; and

9. Any added costs resulting from changes in technology, laws and regulations, labor practices, availability of supplies and equipment, and other business risks that may affect the performance of this Contract.

Section 65. Incorporation of Contractor's Proposal.

The Contractor's Proposal, dated September 9, 2022, submitted in response to the City's Request for Proposals, is fully incorporated by this reference, including but not limited to hauling vehicles and trailers, environmental and operational performance, employee compensation and wages, public outreach and compost give away support and staffing, customer service and community support, and other commitments made in the Contractor's proposal and all associated clarifications and supplemental proposal materials or attachments. In the case of conflict between the Contractor's proposal and this Contract, the provisions of this Contract shall prevail.

Section 70. Contractor Representations and Warranties.

The Contractor represents and warrants to the City as follows:

1. Organization and Qualification. The Contractor is duly incorporated, validly existing, and in good standing under the laws of the state of Washington and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
2. Authority.
 - a) The Contractor has the authority to execute this Contract, to make the representations and warranties set forth in it, and to perform the obligations of Contractor under this Contract in accordance with its terms.
 - b) This Contract has been validly executed by an authorized representative of the Contractor and constitutes a valid and legally binding and enforceable obligation of Contractor.
3. Government Authorizations and Consents. The Contractor has or will obtain prior to the commencement date such licenses, permits, and other authorizations from federal, state, and other governmental authorities, as are necessary for the performance of its obligations under this Contract.
4. Compliance with Laws. The Contractor is not in violation of any applicable law, ordinance, or regulation, the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Contract. The Contractor is not subject to any order or judgment of any court, tribunal, or governmental agency that materially and adversely affects its operations or assets in the state of Washington, or its ability to perform its obligations under this Contract.

5. **Accuracy of Information.** None of the representations or warranties in this Contract, and none of the documents, statements, certificates, or schedules furnished or to be furnished by Contractor pursuant hereto or in connection with the performance of the obligations contemplated under this Contract, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements of fact contained therein not misleading.
6. **Independent Examination.** In accepting these responsibilities, the Contractor represents and affirms that it has made its own examination of all conditions, facilities, and properties affecting the performance of this Contract and of the quantity and expense of labor, equipment, material needed, and of applicable taxes, permits, and laws.

Section 75. Compliance with Law

The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of the City of Seattle; and rules, regulations, orders, and directives of their respective administrative agencies and officers.

COMPENSATION

Section 100. Payment for Back-up Transportation Services.

The City shall pay the Contractor monthly for all tons of Organic Waste transported by the Contractor during the month documented per Sections 1500 and 1510. From April 1, 2024 through March 31, 2025, the City will pay the Contractor a rate of \$515 per load from the City's transfer stations, or from a City Contractor transfer station, for back-up transportation services.

Section 105. Payment for Processing Services.

The City shall pay the Contractor monthly for all tons of Organic Waste processed by the Contractor during the month documented per Sections 1500 and 1510. From April 1, 2024 through March 31, 2025, the City will pay the Contractor a rate of \$69 per ton for processing services.

Section 110. Inflation Adjustment.

The City will compute compensation payable for the Contract year beginning April 1, 2025 and subsequent Contract years as follows:

The per load and per ton rates from the preceding year shall be multiplied by 1.0 plus **80%** of the percentage difference between the second-half annual consumer price index for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bellevue Area (CPI), Series ID No. CWURS49DSA, or successor indices and the previous year's CPI.

Section 150. Performance Fees.

The Contractor shall pay the City \$1 per each minute for any delays on City loads over 45 minutes at the Contractors receiving facilities. Delays include time spent waiting for the scale.

Section 160. City Contract Fee Payment Procedure.

No later than the 10th of each month, the Contractor will submit an invoice and copies of weight information required pursuant to Sections 1500 and 1510. This invoice will be paid by the City to the Contractor by wire transfer on or before the 30th of the same month (or 20 calendar days after the invoice date, if the invoice/weight information is presented late).

EMPLOYEES, SUBCONTRACTORS, AND NON-DISCRIMINATION

Section 200. Paid Sick Time and Safe Time Ordinance

The Contractor shall comply with City's Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside the City, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance.

Section 210. Minimum Wage and Wage Requirements

The Vendor shall comply to the extent applicable with the City's Minimum Wage labor standards as required by SMC 14.19, setting wage standards for employees working within City limits as well as the Wage Theft labor standards as required by SMC 14.20, setting basic requirements for payment of wages and tips for employees working within City limits and providing various payment documentation to employees.

Section 215. Wages and Increases for Employees.

Employee wages and compensation reflect Contractor commitments in their proposal submitted September 9, 2022, in response to the City's Request for Proposals. All wage increases for any employees of the Contractor granted during the term of this Contract shall be the sole responsibility of the Contractor. Any benefits or added costs resulting from changes in technology, laws and regulations, labor practices, availability of equipment, and other foreseeable business risks that may affect the performance of this Contract shall be to the Contractor's advantage or expense respectively.

Section 220. Payroll Records and Reports.

The Contractor and subcontractors shall keep complete and accurate payrolls containing the following information with respect to staff employed upon or under this Contract:

1. Name and residence address;

2. Classification of work;
3. City route number;
4. Number of hours employed each day, as verified by a time clock record;
5. Total number of hours employed each payroll period, as verified by a time clock record;
6. Rate of wages;
7. Total amount earned;
8. All deductions;
9. Net amount paid; and
10. Funds paid by employer for prevailing benefits.

All employees shall be paid in lawful money of the United States, in the full amount accrued to each employee at the time of closing the payroll.

The Contractor's and subcontractor's payroll records shall be available for inspection and audit by City staff, or a City third-party contractor, during office hours at the Contractor's Seattle office.

The Contractor and subcontractor shall submit electronic copy of payroll records with other above information if requested by the City.

The City shall withhold payment on all estimates for work performed by the Contractor under this Contract until: (1) all payroll reports, with the above information of said Contractor and subcontractor for work performed have been filed with the City; and (2) all employees doing collection work under this Contract have been paid the prevailing rate of wage as determined by the City.

Section 225. Withholding and Payment of Tax Liens and Judgments.

The City may withhold and pay to the United States of America or to any federal court, or the State of Washington or any state court, the amount claimed in a levy filed by the United States Internal Revenue Service or the Washington State Department of Revenue, respectively; the amount directed by a writ of garnishment, writ of attachment, or writ of execution, or by an order of a Bankruptcy Court, and/or by any court order, each for monies claimed from the Contractor. When presented with such an order, the City may in its discretion institute interpleader proceedings. The City may make a payment in conjunction with the interpleader action to the appropriate court. Payments so made or deposited into the registry of the court shall be satisfaction of payment due to the Contractor.

Section 240. Nondiscrimination - Employment Actions.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification.

The Contractor shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.

Section 245. Affirmative Efforts in Hiring and Subcontracting.

In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when there are commercially useful purposes for fulfilling the scope of work.

The WMBE Inclusion Plan submitted to the Contractor's Proposal is material to the Contract. The requirements and conditions stated in the WMBE Inclusion Plan shall be enforced as a contract requirement.

If upon investigation, the City finds probable cause to believe that the Contractor has failed to comply with the requirements of this Section, the Contractor shall be notified in writing. The City shall give the Contractor an opportunity to be heard with ten (10) calendar days' notice. If, after the Contractor's opportunity to be heard, the City still finds probable cause, then the City may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the requirements of this Section.

Any violation of the mandatory requirements of this Section, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material breach of Contract for which the Contractor may be subject to damages and sanctions provided for by the Contract and by applicable law. In the event the Contractor is in violation of this Section shall be subject to debarment from City contracting activities in accordance with Seattle Municipal Code Section 20.70 (Debarment).

Section 250. Equal Benefits.

The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Contractor provides to its employees with spouses. At the City's request, the Contractor shall provide complete information and verification of the Contractor's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract.

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

1. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; and/or
2. Terminate the Contract; and/or
3. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; and/or
4. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

Section 255. Americans with Disabilities Act.

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. If the Contractor is providing services, programs or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities based on such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate Contract termination.

Section 260. OSHA/WISHA Compliance.

The Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all services under this Contract will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against the City as a result of the Contractor's failure to comply with the acts and standards thereunder and for the failure of the services furnished under this Contract to so comply.

Section 265. Notification Requirements for Federal Immigration Enforcement.

Prior to responding to any requests from an employee or agent of any federal immigration agency including the Immigration and Customs Enforcement (ICE), the U.S. Department of Homeland Security (DHS), Homeland Security Investigations (HSI), Enforcement Removal Operations (ERO), Customs and Border Protection (CBP), and U.S. Citizenship and Information Services (USCIS) regarding this Contract, the Contractor shall notify the City immediately. Such requests include but are not limited to requests for data or information (written or verbal) about workers engaged in the work of this Contract. To the extent allowed by law, no access or information shall be provided without prior review and consent of the City. The Contractor will request the federal authority wait until the City is able to verify the credentials and authority of the requesting agent and direct the Contractor on how to proceed.

Section 270. Workers Right to Know.

"Right to Know" legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-62-054 requires among other things that all manufacturers/distributors of hazardous substances, must include with each delivery

completed Material Safety Data Sheets (MSDS) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with: the identity of the hazardous material, appropriate hazardous warnings, and the Name and Address of the chemical manufacturer, improper, or other responsible party.

Labor and Industries may levy appropriate fines against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to “carcinogenic ingredients and “routes of entry” of the product(s) in question.

Section 280. Independent Contractor.

It is the intention and understanding of the parties that Contractor shall be an independent contractor and that the City shall be neither liable for nor obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due in a timely manner. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that the City is not the exclusive user of the services that Contractor provides.

Section 290. Key Persons and Subcontractors.

Contractor shall not transfer, reassign, or replace any individual or subcontractor that is determined to be essential or that has been agreed upon in the Contractor's Subcontracting (Inclusion) Plan, without express written consent of the City. If during the term of this Contract, any such individual leaves the Contractor's employment or any named subcontract is terminated for any reason, Contractor shall notify the City and seek approval for reassignment or replacement with an alternative individual or subcontractor. Upon the City's request, the Contractor shall present to the City, one or more subcontractors or individual(s) with greater or equal qualifications as a replacement. Continued achievement of the Subcontracting (Inclusion) Plan that was incorporated into this Contract by reference, if any, and the associated subcontract awards, aspirational goals and efforts, will be one of the considerations in approval of such changes. The City's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

SECURITY; LIABILITY; DAMAGES

Section 300. Performance Bond.

The Contractor shall provide and maintain always a valid Contractor's Performance and Payment Bond ("Bond") for thirty percent (30%) of the estimated annual revenue to the Contractor under the Contract. The Bond shall be issued for a period of not less than one year and the Contractor shall provide a new bond, or evidence satisfactory to the City of the renewability of the current bond at least 90 calendar days before it expires.

The initial Bond must be in place prior to the beginning of processing under this Contract.

The Bond shall be conditioned upon full performance of all obligations imposed upon the Contractor in this Contract. The Bond shall be subject to approval by the City Attorney as to the company, form, and sufficiency of surety. If the instrument is found by the City Attorney to be flawed, the Contractor must correct the flaw promptly prior to contract execution or the award may be terminated.

The Bond must be executed by a company that is included in the U. S. Department of the Treasury's Listing of Approved Sureties (Circular 570), is included on the Washington State Insurance Commissioner's Authorized Insurance Company List and is acceptable to the City.

The Bond shall be in full force effect and shall be the obligation of the surety unless the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, subcontractors, materialmen, and all persons who shall supply such Contractor or subcontractors with provisions and supplies for the performance of this Contract. The Bond shall contain appropriate recitations that it is issued pursuant to this Section of this Contract, that it shall be construed to meet all requirements specified herein and that any condition or limitation in the Bond that conflicts with the conditions and requirements of this Section is void.

Failure of the Contractor to furnish and maintain the Bond shall be considered a material default of this Contract and grounds of its immediate termination at the option of the City.

Section 310. Default of Contractor.

This Section is independent, notwithstanding any other provisions of this Contract. Except as provided in the last paragraph of this Section, the Contractor may be held in default of the Contract in the event the Contractor:

1. Is unable to accept Organic Waste, for more than a 48-hour period for processing at the Primary, Secondary, or back-up Processing Facility or alternate facility approved by the City;
2. Fails to comply with the terms of any of the Sections 200 to 290;
3. Fails to furnish and maintain a Performance and Payment Bond per Section 300;
4. Fails to furnish and maintain the Insurance Requirements per Section 340;
5. Fails to provide timely and accurate Contractor records per Section 1500; or
6. Repeatedly neglects, fails, or refuses to comply with any material term of the Contract, after having received written notice of its obligation to do so.

To initiate proceedings under this Section, the City shall give notice to the Contractor and its surety of the location, time, and date within the following seven (7) calendar days of a meeting with the City's General Manager at which the Contractor will be given the opportunity to correct the deficiency above and to show cause why it should not be declared in default or why it should be given the opportunity to cure said default. In the event the Contractor fails to show, to the reasonable satisfaction of the City's General Manager, why the Contractor should not be declared to be in default of this Contract, the City's General Manager may make a declaration of default. In evaluating whether to make such a declaration of default, the City's General Manager shall, in her/his discretion, consider the severity of the alleged violations, and the overall performance of the Contractor under the Contract.

In declaring the Contractor to have defaulted on the Contract, the Director also may order the Contractor to discontinue further performance of work under the Contract and transfer the obligation to perform such work from the Contractor to the surety on the Contractor's performance Bond and take any other action it deems advisable.

Upon receipt of a notice that the work has been transferred to the surety without termination of the Contract, the surety shall take possession of all materials, supplies, technology, and equipment described in the most recent inventory submitted to the City pursuant to Sections 1020 and 1500 hereof, for the purpose of completing the work under the Contract; employ, by contract or otherwise, any person and all persons needed to perform the work; and provide materials, supplies, technology, and equipment required therefor. Such employment shall not relieve the surety of its obligations under the Contract and the bond. If there is a transfer to the surety, payments shall be made to the surety or its agent for all work performed under the Contract subsequent to such transfer, in amounts equal to those that would have been made to the Contractor had it performed in the manner and to the extent of the surety's performance, and the Contractor shall have no claim upon the same.

In the event the surety on the Contractor's performance Bond fails to assume or continue performances within 48 hours after its receipt of notice that the work has been transferred to such surety, the Contractor shall lease, sublease, or otherwise license the City to use all, or whatever portion is desired by the City, of the materials, supplies, technology, and equipment described on the most recent inventory submitted to the City pursuant to Section 1020 hereof, for collection purposes for a period of up to six (6) months following the date of the declaration of default by the City without requiring the City to execute any other document whatsoever to accomplish such lease, sublease, or license and without requiring the City to post any bond, pledge, deposit, or other security for such equipment and materials, but upon the condition that the City pay for the equipment, supplies, technology, and materials actually used for such collection a market rental that is no greater than (i) the monthly lease, in the event such property is leased by the Contractor, (ii) the periodic installment, in the event such property is being acquired under a purchase contract, (iii) the periodic financing interest and principal, in the event such property is being acquired under a purchase contract, or (iv) the periodic interest and principal, in the event such property is being acquired under a financing arrangement; provided, that under

no circumstances shall the City be liable during its use of such property for any arrearages, balloon payment, accrued interest, accelerated charges in the event of a default, or other extraordinary payment; nor shall the satisfaction thereof be a condition of the City's interim use of such property; provided, further, that such lease, sub-lease, or license shall be suspended the date the surety on the Contractor's bond or its agent accepts the transfer of work under the Contract.

In the event the City secures the performance of work under the Contract at a lesser cost than would have been payable to the Contractor had the Contractor performed the same, then the City shall retain such difference; but in the event such cost to the City is greater, the Contractor and its surety shall be liable for and pay the amount of such excess to the City in a timely manner.

All payments due the Contractor at the time of default, less amounts due the City from the Contractor, shall be applied by the City against damages suffered and expense incurred by the City by reason of such default, and any excess shall be paid to the Contractor unless otherwise provided herein.

Notwithstanding the provisions of this Section, a delay or interruption in the performance of all or any part of the Contract resulting from causes beyond the Contractor's control shall not be deemed to be a default and the rights and remedies of the City provided for herein shall be inapplicable; provided that labor disputes shall not be considered a cause beyond the Contractor's control.

Section 320. Ownership of Equipment.

All essential facilities, equipment, supplies, technology, and property used in the performance of this Contract shall be wholly owned by the Contractor; provided, that leases, conditional sale contracts, mortgages, or other agreements for the use or financing the purchase of vehicles, facilities, equipment, supplies, technology, and property may be allowed with the prior written approval of the City.

All such leases, conditional sale contracts, mortgages, or other agreements shall provide that in the event of the Contractor's failure to perform its obligations under this Contract, the City, at its option, shall have the right to take possession of and operate vehicles, facilities, equipment, supplies, technology, and property covered by such lease or agreement for the unexpired term of this Contract. No further encumbrance shall be placed upon any such vehicles, facilities, supplies, technology, or equipment without the prior written approval of the City.

Section 340. Insurance Limits.

At all times during the term of this Agreement, the Contractor shall maintain in force the following minimum levels of coverage and limits of liability for insurance or self-insurance ("Insurance"):

1. COMMERCIAL GENERAL LIABILITY (CGL) Insurance including coverage for:
 - Premises/Operations

- Products/Completed Operations
- Pollution – On-Site and Off-Site*
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

Such Insurance must provide the following minimum limits of liability:

\$5,000,000	each occurrence Combined Single Limit bodily injury and property damage (CSL)
\$10,000,000	Products/completed operations aggregate
\$1,000,000	General aggregate
\$5,000,000	each accident/disease/policy limit

2. BUSINESS AUTOMOBILE LIABILITY INSURANCE for owned, non-owned, hired, and leased vehicles, as applicable, written on a form CA 00 01 or equivalent, including for City trailers when transported by the Contractor. Such insurance must provide a minimum limit of liability of \$1,000,000 CSL.
3. WORKERS' COMPENSATION INSURANCE as required by the Industrial Insurance laws of the state of Washington.
4. UMBRELLA/EXCESS/BUMBERSHOOT LIABILITY INSURANCE over CGL and automobile liability minimum limit shall be \$5,000,000 CSL (\$6,000,000 total limits requirement).

The limits of liability specified above may be satisfied with primary limits of liability or any combination of primary limits and excess/umbrella limits.

Section 350. Insurance Terms and Conditions.

1. **City of Seattle as Additional Insured:** The CGL, Auto, and excess/umbrella insurance shall include "the City of Seattle" as an additional insured for primary and non-contributory limits of liability.
2. **No Limitation of Liability:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only; they shall not be construed to limit the liability of the Contractor or any insurer for any claim that is required to be covered hereunder to less than the applicable limits of liability stated in the declarations. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by vendor, whether those limits are primary, excess, contingent or otherwise. The Contractor expressly understands and agrees that this provision shall override any limitation of liability or similar provision in any agreement or statement of work between the City and the Contractor.

* Pollution Liability Insurance minimum limits of liability may be evidenced with separate coverage.

3. **Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited:** The Contractor's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. The Contractor's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the Contractor's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. The Contractor's CGL policy shall NOT include any of the following Endorsements (or their *equivalent endorsement or exclusions*): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer's Liability exclusion, (e) any "Insured vs. Insured" or "cross-liability" exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. The Contractor's failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure insurance coverage with any related costs of premiums to be repaid by the Contractor or reduced and/or offset against the Contract.
4. **Claims Made Form:** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this Contract. Claims made coverage shall be maintained by the Contractor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Contractor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.
5. **Deductibles and Self-Insured Retentions:** Any self-insurance retention or deductible in excess of \$ 25,000 that is not "fronted" by an insurer and for which claims the vendor or its third-party administrator is directly responsible for defending and indemnifying must be disclosed on the certificate of liability insurance. The Contractor agrees to defend and indemnify the City under its self-insured or deductible layer and upon City's request advise the full delivery address of the individual or department to whom a tender of a claim should be directed.
6. **Notice of Cancellation:** Under RCW 48.18.290 ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than

30 days prior to cancellation (10 days as respects non-payment of premium). As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation (10 days as respects non-payment of premium).

7. **Qualification of Insurers:** Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.
8. **Changes in Insurance Requirements:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Contractor. Should the Contractor, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.
9. **Evidence of Insurance:** The Contractor must provide the following evidence of insurance:
 - a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
 - b) An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL/MGL (and if required Pollution Liability insurance policy).
 - c) A copy of all other amendatory policy endorsements or exclusions of the Contractor's insurance CGL/MGL policy that evidences the coverage required.

In the event that the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, the Contractor shall also cause a complete copy of the requested policy to be timely furnished to the City.

Section 360. Indemnity.

To the extent permitted by law, the Contractor shall protect, defend, indemnify, and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

Section 370. Liquidated Damages.

This Section is independent of Section 310. Liquidated Damages pursuant to this Section shall be deducted from the monthly payment to the Contractor. These damages do not apply if a major disaster or emergency causes a disruption in the Processing Facility operations or transportation services. The acts or omissions in the left-hand column are a breach of this Contract; the amounts in the right-hand column are set as Liquidated Damages.

<u>OMISSION</u>	<u>LIQUIDATED DAMAGE</u>
1. Failure to accept Organic Waste at the primary, secondary, or back up receiving facility for more than a 3-hour period, during operating hours.	\$500 per trailer per hour

Procedures for applying, appealing, and reversing liquidated damages will be included in the Operations Plan.

INFORMATION DISCLOSURE AND ETHICS PROVISIONS

Section 400. No disclosure unless required by law.

The parties agree that they will not permit the duplication, use, or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use, or disclosure is specifically authorized in writing by the other party or is required by law. "Confidential and Proprietary" information does not include ideas, concepts, know-how, or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Contract. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

Section 410. Contractor's Understanding and Obligations.

The Contractor understands that any records (including but not limited to proposal submittals, the Contract, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

The Contractor must separate and clearly mark as "proprietary" information all records related to this Contract or the performance of this Contract that the Contractor believes are exempt from disclosure. The Contractor is to be familiar with potentially applicable public

disclosure exemptions and the limits of those exemptions and will mark as “proprietary” only information that the Contractor believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.

If the City notifies the Contractor of a public records request, and the Contractor believes records are exempt from disclosure, it is the Contractor’s responsibility to make its own determination and pursue a lawsuit under RCW 42.56.540 to enjoin disclosure. The Contractor must obtain the injunction and serve it on the City before the close of business on the tenth business day after the City sent notification to the Contractor. It is the Contractor’s discretionary decision whether to file the lawsuit.

If the Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record.

Notwithstanding the above, the Contractor must not take any action that would affect (a) the City’s ability to use goods and services provided under this Contract or (b) the Contractor’s obligations under this Contract.

The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

Section 420. The City’s Obligations.

The City will disclose those parts of records the Contractor has marked as “proprietary information” only to authorized persons unless: (a) the City discloses the records in response to a public records request or (b) the Contractor has given the City express advance written permission to disclose the records. “Authorized persons” means those City officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to the City. The term “proprietary information” does not include ideas, concepts, know-how or techniques related to any information that, at the time of disclosure, is in the public domain, unless the entry of that information into the public domain is a result of a breach of this Contract.

If the City receives a public records request for records that Contractor has marked as “proprietary information,” the City may promptly notify the Contractor of the request. The City may postpone disclosing these records for ten (10) business days after it has sent notification to the Contractor, in order to allow the Contractor to file a lawsuit under RCW 42.56.540 to enjoin disclosure. It is the Contractor’s discretionary decision whether to file the lawsuit.

If the City has notified the Contractor of a public records request, and the Contractor has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City may disclose the record.

The City has no other obligations concerning records the Contractor has marked as “proprietary information” under this Contract. The City has no obligation to claim any exemption from disclosure. The City is not obligated or liable to the Contractor for any

records that the City releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

Section 440. Violation of Antitrust or Corrupt Practice Laws.

In the event the Contractor is found to be guilty of a violation of antitrust or corrupt practice laws for acts performed in Washington during the term of this Contract, the City at its election may terminate this Contract by giving the Contractor written notice of the City's intent to terminate this Contract effective on the date designated by the City in the notice. For purposes of this Section, the "antitrust or corrupt practice laws" shall include all civil and criminal statutes, both state and federal, pertaining to the antitrust laws, fair practices acts, and any laws governing corrupt standards or practices. Further, for the purposes of this Section, the Contractor shall be considered to be "guilty" of a violation of such antitrust or corrupt practice laws if the Contractor or any of its officers or management employees: (1) enters a plea of guilty to a charge, (2) enters a plea of nolo contendere, or (3) is found guilty of a criminal violation or is held liable for a civil violation by the highest court or tribunal which considers the case.

Section 450. No Conflict of Interest.

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

Section 460. No Gifts or Gratuities.

Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work, or meals) to any City employee, volunteer, or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Vendor. Promotional items worth less than \$25 may be distributed by the vendor to City employees if the Vendor uses the items as routine and standard promotions for business. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

Section 470. Campaign Contributions.

Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least \$250,000 in contracts with the City in the last two years or who has paid at least \$5,000 in the last 12 months to lobby the City.

Section 480. Involvement of Current and Former City Employees.

If a Contractor has any current or former City employees, official, or volunteer working or assisting on solicitation of City business or on completion of an awarded contract, you **must** provide written notice to SPU Contracting Division of the current or former City official, employee, or volunteer's name. The Vendor Questionnaire in your proposal included an initial Contractor listing. Contractor shall update the Contracting Division with

any relevant changes. The Contractor shall be aware and familiar with the Ethics Code (SMC 4.16) and educate workers accordingly.

Section 490. Ethics Code for Workers with 1,000 hours.

The Contractor shall provide annual list of workers that perform more than 1,000 hours of contract work within a rolling 12-month period. Such hours include performance under for the Contract, and any other hours that the worker performs for the City under other contracts. The Contractor shall advise such workers that they are subject to the City Ethics Code (SMC 4.16) and educate workers accordingly.

ANCILLARY PROVISIONS

Section 500. Assignment or Pledge of Moneys by the Contractor.

The Contractor shall not assign or pledge any of the monies due under this Contract without securing the written approval of the surety on the performance bond and providing at least thirty (30) calendar days' prior notice to the City of such assignments or pledge together with a copy of the surety's approval thereof. Such assignment or pledge, however, shall not release the Contractor or its sureties from any obligations or liabilities arising under or because of this Contract.

Section 505. Assignment; Subcontracting; Delegation of Duties.

Except for the subcontracting identified in the Contractor's proposal, the Contractor shall not assign or subcontract or transfer any of the work or delegate any of its duties under the Contract without the prior written approval of the City, which approval may be granted or withheld in the City's sole discretion.

Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions (Section 250). Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions (Section 250).

The City's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract. In the event of an assignment, subcontract, or delegation of duties, the Contractor shall remain responsible for the full and faithful performance of this Contract and the assignee, subcontractor, other obligor shall also become responsible to the City for the satisfactory performance of the work assumed. The City may condition its approval upon the delivery by the assignee, subcontractor, or other obligor of its covenant to the City to fully and faithfully complete the work or responsibility undertaken.

During the term of this Contract, the Contractor shall not have any ownership interest in any other company that has a contract for Organic Waste Processing with the City.

Section 510. Audit.

The Contractor shall maintain in its office in King County full and complete accounting records, prepared in accordance with generally accepted accounting principles, reflecting the Contractor's work on this Contract. The City may require an audit of such books and records at any reasonable time. Such audit will be conducted by City staff or by a certified public accounting firm with experience in auditing public service companies selected by the City.

Upon request, the Contractor shall permit the City to inspect and audit all pertinent books and records of the Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to this Contract, at any and all times deemed necessary by the City, including up to six (6) years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in King County, Washington or other such reasonable location as the City selects. The Contractor shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit, and copying right of the City is a condition of any subcontract, agreement, or other arrangement under which any other person or entity is permitted to perform work under this Contract.

Section 520. Contract Rights.

The parties reserve the right to amend this Contract from time to time by mutual agreement in writing. Rights under this Contract are cumulative, and in addition to rights existing at common law. Payment by the City and performance by the Contractor do not waive their contract rights.

Failure by either party on any occasion to exercise a contract right shall not forfeit or waive the right to exercise the right on another occasion. The use of one remedy does not exclude or waive the right to use another.

Section 525. Interpretation.

This Contract shall be interpreted as a whole and to carry out its purposes. This Contract is an integrated document and contains all the promises of the parties; no earlier oral understandings modify its provisions.

Captions and titles are for convenient reference only. A caption or titles does not limit the scope or add commentary to the text.

In the event of conflict between contract documents and applicable laws, codes, ordinances, or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the City the maximum benefits.

Section 530. Law; Venue.

The laws of the State of Washington and Charter and Ordinances of the City shall govern the validity, construction and effect of this Contract. The venue for any claims, litigation, or

causes of action between the parties shall be in the Superior Court of the State of Washington for King County.

Section 535. Notices.

All official notices or approvals shall be in writing. Unless otherwise directed, notices shall be delivered by messenger or by certified mail with delivery confirmation to the parties at the following respective addresses:

To the City:
Sally Hulsman
Solid Waste Contracts Manager
Seattle Public Utilities
700 5th Avenue, Suite 4900 or
PO Box 34018
Seattle, WA 98124

To the Contractor:
J. Stephan Banchemo III
President
Cedar Grove Composting
7343 East Marginal Way S
Seattle, WA 98108

Either party may from time to time designate a new representative and/or address for notices.

Section 540. Severability.

Should any term, provision, condition, or other portion of this Contract or its application be held to be inoperative, invalid, or unenforceable, and the remainder of the Contract still fulfills its purposes, the remainder of this Contract or its application in other circumstances shall not be affected thereby and shall continue in force and effect.

Section 545. No Personal Liability.

No officer, agent, or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

Section 550. Disputes

The City and Contractor shall maintain business continuity to the extent practical while pursuing disputes. Any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance shall first be resolved, if mutually agreed to be appropriate, through negotiations between the parties' Contract representatives as listed in Section 535, or if mutually agreed, referred to the City's named representative and the Contractor's senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes or may by mutual agreement pursue other dispute alternatives such as mediation, arbitration, or alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the Contract in accordance with the termination provisions herein.

Notwithstanding above, if the City believes in good faith that some portion of work has not been completed satisfactorily, the City may require the Contractor to correct such work prior to the City payment. In such event, the City must clearly and reasonably provide to

Contractor an explanation of the concern and the remedy that the City expects. The City may withhold from any payment that is otherwise due, an amount that the City in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

Section 560. Termination.

Notwithstanding any other provisions of this Contract, the City may terminate this Contract upon a material default under or breach of this Contract by the Contractor. A termination for violation of an equal opportunity provision, or violation of any other provision shall take effect in fifteen (15) days after delivery of notice of termination.

Section 570. Force Majeure – Suspension.

This section applies in the event either party becomes unable to perform its obligations under this Contract because of a Force Majeure Event. A Force Majeure Event is an external event that is beyond the control of the party or its agents and that renders the party severely compromised in its ability to perform all its obligations under the Contract. Such events may include a natural or man-made disaster or an action or decree of a superior governmental body, which completely prevents the party from performing all its obligations under the Contract. In circumstances where the Contractor's performance of its obligations under the Contract is not completely prevented, but is disrupted by an emergency or disaster, the provisions of Section 580 shall apply.

Should either party suffer from a Force Majeure Event, such party shall provide the other party with notice as soon as practical and shall act with speed and diligence to mitigate any potential damage that may result from the event and resume performance of all its obligations under the Contract as soon as possible. When notice has been properly provided, the obligations of both parties shall be suspended for the period of time the Force Majeure Event prevents the party from resuming performance of all its obligations under the Contract.

Section 580. Emergencies, Disasters – Major Service Disruption; Contingency Plan.

This section applies in the event an emergency or disaster causes a major disruption to the Contractor's ability to maintain standard levels of service in the performance of its obligations under the Contract. Such events may include, but are not limited to, a severe storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist or cyber-attack, or any combination of the above. In such an event:

1. The City shall notify the Contractor of the emergency or disaster, describing the relevant circumstances arising from the event, and request emergency and priority services from the Contractor.
2. Upon such notice from the City, the Contractor shall consult with the City and exercise its best efforts in providing the emergency and priority services as requested by the City in as timely a manner as possible.

3. The Contractor shall make the City's customers its first priority, and its efforts to provide City's customers with emergency and priority services shall not be diminished as a result of the Contractor providing service to other customers.
4. If the Contractor is unable to respond in the time requested by the City, the Contractor shall respond as soon as practical. The Contractor shall immediately assist the City to the extent reasonable in providing services, which may include offering the City substitutions, provided that the Contractor obtains prior approval from the City for the substitutions.
5. The City shall compensate the Contractor for performing emergency and priority services under this section in a manner consistent with the compensation provisions of this Contract.

The Contractor and City shall jointly develop and maintain a Contingency Plan addressing the elements above. The Contractor shall take the lead to develop the Contingency Plan, with a City approved Plan completed on the date of execution of this Contract. The Contingency Plan shall be reviewed and updated annually by the Contractor beginning April 1, 2025, with each update subject to the City's approval.

PROCESSING SERVICES

Section 700. Organic Waste Receiving and Processing.

The Contractor shall be responsible for processing all Organic Waste received from the City and marketing all end products. The receiving facility shall contain, maintain, and routinely certify a truck scale for weighing all trucks in and out of the facility. Stored tare weights shall not be used for billing, unless approved by the City.

The Contractor's arrangements for processing organic material, at both the primary and back-up Processing Facilities, shall be subject to review and approval before the start of this Contract. All facilities and equipment covered under this contract shall be subject to inspection by City staff during business hours to confirm compliance with this Contract, the Operations Plan, the Contractor stated operating standards, and all the local, state, and regional air authority rules and regulations pertaining to facility operations and related products.

Upon request, the Contractor will provide adequate space at the Receiving or Processing Facility for occasional waste composition sorts by City staff or consultants.

Section 710. Contractor Share of City Organic Waste.

The Contractor shall provide processing services called for in this Contract for a minimum of 35% and maximum of 45% of the City's Organic Waste each month, as collected through the City's collection contracts and transfer stations (the "Contractor Share"). These limits can be adjusted by mutual agreement in writing by the City and the Contractor. The

total tons processed by the Contractor shall not exceed 6,000 tons per month, unless mutually agreed by the City and the Contractor.

The City has the option of directing self-haul Wood Waste from the City transfer stations to alternative regional markets.

Section 720. Primary and Secondary Organic Waste Processing Facilities.

The Contractor's Primary Processing Facility shall be:

Cedar Grove Composting
3620 36th PI SE
Everett, WA 98201

The Primary Facility shall be open for City loads from 5am to 10pm (PST) on Monday to Friday and shall be open for City loads from 8am to 4pm (PST) on Saturday and Sunday.

The Contractor's Secondary Processing Facility shall be:

Cedar Grove Composting
17825 Cedar Grove SE
Maple Valley, WA 98038

The Secondary Facility shall be open for City loads from 7 am to 5 pm (PST) on Monday to Friday and shall be open for City loads from 8 am to 4 pm (PST) on Saturday.

The Contractor and City will coordinate weekly on City hauling and Contractor receiving plans, including City delivery to the Primary and Secondary Facilities, as described in the Operations Plan. The City shall notify the Contractor by Thursday at 5 pm (PST) for any weekend loads.

Unless otherwise agreed by the Contractor and the City, the City will deliver City loads as follows:

- Weekday loads will be delivered to the Primary Facility, provided that, during the months of April, May, June, October, and November, the Contractor will provide capacity at the Secondary Facility for up to eight (8) weekday loads per week.
- Saturday loads will be delivered to the Secondary Facility, with a minimum of four (4) loads delivered, unless otherwise approved by the Contractor.
- Sunday loads will be delivered to the Primary Facility, with advance notice provided.

Section 730. Back-up Organics Processing Facility.

To avoid disruption of the organics collection program through a temporary shutdown in receiving or processing, the Contractor shall have an agreement with other permitted receiving and processing facilities for processing the organic materials accepted under this contract. The Contractor represents and warrants that as of the date hereof each of the

following facilities is so permitted and that each has agreed to receive or process Organic Waste as a back-up facility pursuant to this section:

Winton Manufacturing
17400 Winton Rd
Leavenworth, WA 98826

If the Contractor is unable to meet pertinent local or state, local, or other regulations, or is unable for any reason whatsoever to accept for processing at its specified primary or secondary processing facilities, the Contractor, at its own initiative or upon notification from the City, shall deliver Organic Waste at its expense to the back-up Organics receiving and/or processing facilities identified above.

The Contractor shall be responsible for all payments required to contract for use of the back-up facility. The City shall bill the Contractor for any additional City operational costs as a result of the Contractor delivering Organic Waste to the back-up facility. The City will document these operational costs.

Section 740. Contaminants.

The City will be responsible for the disposal of Contaminants delivered to Contractor by the City or any other City contractor. The Contractor will, without cost to the City, segregate the contaminants (segregating tires separately) at the primary, secondary, or back-up facilities, for the City to transport back to a City transfer station or other disposal facility.

The maximum contaminants that can be returned to the City shall be based on organic waste composition studies conducted by the City approximately every four (4) to six (6) years. If requested by the City, the Contractor will provide sufficient space at the Processing Facility to support contamination sorts. The Contractor will also partner with the City to incorporate non-Contract organics collected from businesses and organizations in Seattle city limits in composition studies, to help identify contamination and composition trends to inform shared outreach efforts.

The Contractor may reject loads or partial loads with excessive or high-risk contamination prior to processing, including loads with Moderate Waste, Dangerous Waste, marijuana debris, or similar waste under special classification.

The City will coordinate and implement customer education and enforcement efforts, in conjunction with City-contracted collectors to minimize contamination. The City will monitor loads of Organic Waste at City stations to minimize loading of contamination and customer carts when identified and feasible.

Section 750. End Products.

The Contractor will process Organic Wastes into marketable products such as soil amendments, mulch, animal feed product, or gaseous and liquid byproducts from anaerobic digestion. The Contractor is responsible for transporting and marketing all end

products. Marketing of the product is at the Contractor's risk, expense, and profit (or loss). The Contractor is responsible for marketing of any electrical energy or fuel produced from anaerobic digestion technologies.

The Contractor will routinely test end products to ensure that they meet relevant regulatory standards. Composter end products shall meet the State's Compost Quality Standards as specified under WAC 173-350-220 and any subsequent revisions or replacement statutory requirements. The Contractor will share the test results of end products, as reported to Department of Ecology and the local health department.

Section 760. Promotional Partnerships.

The Contractor will support outreach partnerships with the City to increase diversion and reduce contamination, including educational site tours, event tables and staffing, product giveaway, and other outreach opportunities. The Contractor will provide retail product from the processed Organic Wastes available for purchase by City residents and businesses, provide annual discounted product opportunities for City residents, and support up to four public give-away events per year. Contractor support for product give-away events will include site identification in the City, event planning, and staffing, along with 50 to 100 yards of donated compost per event.

Section 780. Disposal Prohibition.

The Contractor is prohibited from disposing of Organic Waste delivered under this Contract as Garbage or marketing products that the Contractor knows, or has reason to know, will be disposed of in a landfill or incinerator, or disposed of as Garbage. Violation of this Contract provision shall be cause for termination.

Section 790. Pilot Tests.

The City may require the Contractor to conduct pilot tests that temporarily change one or more provisions of this Contract. A pilot test is an experiment with a new processing method, and/or a different type of service. A pilot test may require additional record keeping. The City will provide sufficient advance notice for the pilot. The City and the Contractor shall negotiate in good faith, confirm a written plan, and sign a letter of agreement covering the expected cost and the pilot program duration prior to commencing any such test.

HAULING SERVICES

Section 830. Back-up Organic Waste Transportation.

The Contractor shall provide interim hauling trucks and drivers, if requested by the City, to support transporting the Contractor's Share of Organic Waste from the City transfer station

trailer yards to the Primary or Secondary Processing Facilities, in City-provided trailers. The City will compensate the Contractor for interim hauling per terms for Section 100.

Contractor long-haul trucks used for this Contract will be compatible with City trailers and meet or exceed specified emission standards. Contractor truck drivers performing under this Contract will be permanent employees with wages and benefits that meet or exceed specified contract wage.

The City shall provide one-week notice prior to interim Contractor hauling. Contractor shall notify the City immediately when the Contractor delivers an empty trailer to a City trailer yard and when the Contractor removes a full trailer from City trailer yard. The Contractor shall remove trailers from the City trailer yard within 24 hours of notification from the City. Contractor and City notification procedures will be described in the Operations Plan.

PERFORMANCE, COORDINATION AND BEST PRACTICES

Section 1400. Performance Expectations.

The following expectations are established for services under this Contract:

1. Turn times for City loads at primary, secondary, and backup facilities under 45 minutes.
2. Submit all required data and reports within the time periods specified and consistently provide correct information.
3. Other items as mutually agreed.

Section 1420. Meetings and Communication.

In order to minimize problems during implementation of the Contract, to provide a forum for discussing and resolving any operational questions or issues that may arise, and for updating the Operations Plan, the parties' representatives agree to meet on a monthly basis, unless otherwise mutually agreed.

Section 1440. Operations Plan.

The Contractor and the City shall develop an Operations Plan after the Contract is signed and prior to beginning services. This Operations Plan will include further details and protocol regarding operational leads and ongoing coordination, City hauling and Contractor receiving, data and communications, product promotion and give aways, and other elements shared by the Contractor and the City. The Operations Plan will be reviewed and updated by the parties annually by April 1st during the Contract term. The Operations Plan shall not contain procedures, activities, or schedules that conflict with any terms of this Contract.

Section 1450. Sustainable Business Practices.

Contractors shall use environmentally preferable practices and products to perform City services, including commitments in the Contractor Proposal for this Contract. The Contractors shall use Green Seal, Eco Logo, or other certified cleaning products, where applicable, in performance of cleaning work. The Contractor shall use 100% post-consumer recycled content, chlorine-free paper where possible. Contractors shall use double-sided materials prepared for the City under this Contract, except when impracticable due to the nature of the product.

REPORTING AND DATA REQUIREMENTS

Section 1500. Scale and Trip Records.

The Contractor shall provide to the City by the close of business on Wednesday of each week, in an electronic format specified by the City, a listing of the previous week's weight receipts for all materials received from the City by the Contractor at the Processing Facility. Information must include gross and net weights, truck number, trailer number, City load identification, station source, date, time entering and leaving, and other trip and load data. The Contractor shall provide corrected or missing records within five (5) working days of City request, in format specified by the City. Specific details on reporting format, procedures, and coordination will be captured in the Operations Plan.

The Contractor shall keep as back-up a paper copy of each weight transaction. Weights must be obtained from certified private scales approved by the City, or other scales approved by the City. The City has the option of requiring any private scales to be certified as frequently as quarterly. Falsified or altered weight information shall be cause for Contract termination.

Section 1510. Monthly and Quarterly Reports.

The Contractor shall submit monthly reports for the length of the Contract period commencing with initiation of Organic Waste processing. These reports shall be provided in electronic format specified by the City within ten (10) working days after the end of each month. The Contractor shall not receive its monthly compensation until all items required in the report are submitted to the City. At a minimum, the reports shall include:

1. Summary of tonnages of all received material by source and type, and
2. Contaminants summary and listing of individual weight receipts for Contaminants delivered to the City for disposal.

Contractor shall submit a quarterly report within fifteen (15) working days of the close of the quarter, which shall include:

1. Summary of monthly data for quarter and contract year to date;
2. Summary of end products sold and residuals disposed;

3. Summary of open market organics monthly tons and accounts serviced related to City businesses;
4. Discussion of problems and noteworthy experience in program operation; and
5. Contractor recommendations for improvements.

The City shall submit a quarterly report to the Contractor by the 20th of the month following the end of the quarter, which shall include:

1. Summary of City hauling and processing for prior quarter;
2. Projected City hauling and processing plans for next quarter; and
3. Summary of recent partnerships and future opportunities with the Contractor to improve operations and coordination.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

CEDAR GROVE COMPOSTING, INC

**THE CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES**

By _____
J. Stephan Banchemo III
President

By _____
Andrew Lee
General Manager/CEO

Date _____

Date _____

Authorized by City Ordinance _____

Organics Processing Contract

between
City of Seattle and
Lenz Enterprises, Inc.

Contract # 22-286-A

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Organics Processing Contract

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ORGANICS PROCESSING CONTRACT

BETWEEN THE CITY OF SEATTLE

AND

LENZ ENTERPRISES, INC.

THIS ORGANICS PROCESSING CONTRACT is entered into by and between THE CITY OF SEATTLE, a municipal corporation of the State of Washington by and through Seattle Public Utilities (SPU) (“City”), and Lenz Enterprises, Inc. (“Contractor”) to provide for transportation and processing of Organic Waste (as hereinafter defined) collected through the City’s residential, commercial and transfer station services.

The parties, in consideration of the promises, representations and warranties contained herein, agree as follows:

GENERAL PROVISIONS

Section 10. Purpose and Intent.

This Contract engages Lenz Enterprises, Inc. to process Organic Waste into marketable products.

Section 20. Contract Term.

This Contract shall enter into force and effect upon its execution, with processing services beginning April 1, 2024, continuing for a six-year term, and ending on March 31, 2030. The City shall have the unilateral right to extend this Contract for up to three successive two-year periods, ending on March 31, 2032, or March 31, 2034, or March 31, 2036, by notifying the Contractor on or before June 30, 2029, or June 30, 2031, or June 30, 2033, respectively. If the City extends this Contract, the same terms, conditions, and method of payment in place at the time of extension shall apply during the extension period.

Section 30. Definitions.

In addition to capitalized terms that are defined elsewhere, the following definitions apply:

“City” means the City of Seattle.

“City Approved Compostable Bags” means bags approved by the City for collection in City services that meet ASTM D6400, ASTM D6868, or successor testing standards and are certified by a recognized third-party independent verification body as meeting the ASTM or successor standard specifications.

“City Approved Single-Use Food Service Ware” means single-use service ware and food packaging approved by the City for collection in City services that meet ASTM D6400, ASTM D6868, or successor testing standards and are certified by a recognized third-party independent verification body as meeting the ASTM or successor standard specifications.

“Contractor’s Share” means the portion of the City’s Organic Waste to be processed by the Contractor as described in Section 710.

“Contaminants” means any materials outside the definition of Organic Waste that are commingled in processing loads.

“Food Waste” means all food scraps, including, but not limited to, meat, dairy products, grease, and bones; paper that has been contaminated with food, fat, or grease; and soiled cardboard and paper, including but not limited to paper towels, paper plates, bags, tissue, and waxed paper.

“Organic Waste” includes Food Waste, Yard Waste, Wood Waste, City Approved Compostable Bags, City Approved Single-Use Food Service Ware, and other organic materials as mutually agreed by the City and the Contractor.

“Yard Waste” means plant material (e.g., leaves, grass clippings, branches, brush, flowers, roots, wood waste, etc.); organic debris commonly thrown away while maintaining yards and gardens, including sod and a small number of incidental rocks not over two (2) inches in diameter; and biodegradable waste approved for the Yard Waste programs by the City. Yard Waste does not include loose soils; Food Waste; plastics and synthetic fibers; Wood Waste; any wood or tree limbs over four (4) inches in diameter; human or animal excrement; animal carcasses; noxious weeds; and, soil or other materials contaminated with hazardous substances.

“Wood Waste” means unpainted and untreated pallets, lumber, lath and cedar shingles, and other clean wood delivered to the City transfer stations.

Section 40. City Responsibilities.

The City shall be responsible for:

1. Making payments contemplated by this Contract;
2. Inspecting Contractor performance;
3. Maintaining its collection contracts;
4. Delivering the Contractor’s Share of Organic Waste to the Contractor’s Processing Facilities;
5. In accordance with Section 740, disposing of Contaminants returned to the City’s disposal facilities;

6. Coordinating and implementing customer education and enforcement efforts with City–contracted collectors to minimize contamination; and
7. Monitoring loads of Organic Waste at City stations to minimize contamination.

Section 50. City Representations and Warranties.

The City represents and warrants to the Contractor as follows:

1. Organization and Qualification. The City is a municipal corporation and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
2. Authority.
 - a) The City has the authority to execute this Contract, to make the representations and warranties set forth in it and to perform the obligations of the City under this Contract in accordance with its terms.
 - b) This Contract has been validly executed and constitutes a valid and legally binding and enforceable obligation of the City.

Section 60. Contractor Responsibilities.

The Contractor shall be responsible for:

1. Furnishing all skill, labor, equipment, materials, supplies, technology, and utility services required for providing all services in accordance with this Contract;
2. All actions and activities of its subcontractors;
3. Maintaining and supplying all records and information required by this Contract;
4. Securing at Contractor's expense all governmental permits and licenses and required regulatory approvals (including those required by City ordinance);
5. Paying all applicable taxes;
6. Complying with all applicable laws and regulations, including without limitation relevant environmental and health laws, regulations, and standards related to organics processing and related end products;
7. Performing all work in a timely, thorough, and professional manner;
8. All wage increases for Contractor's employees; and

9. Any added costs resulting from changes in technology, laws and regulations, labor practices, availability of supplies and equipment, and other business risks that may affect the performance of this Contract.

Section 65. Incorporation of Contractor's Proposal.

The Contractor's Proposal, dated September 9, 2022, submitted in response to the City's Request for Proposals, is fully incorporated by this reference, including but not limited to transportation vehicles and trailers, environmental and operational performance, employee compensation and wages, sustainable practices, public outreach and compost give away support and staffing, customer service and community support, and other commitments made in the Contractor's proposal and all associated clarifications and supplemental proposal materials or attachments. In the case of conflict between the Contractor's proposal and this Contract, the provisions of this Contract shall prevail.

Section 70. Contractor Representations and Warranties.

The Contractor represents and warrants to the City as follows:

1. Organization and Qualification. The Contractor is duly incorporated, validly existing, and in good standing under the laws of the state of Washington and has all requisite corporate power and authority to enter into and to perform its obligations under this Contract.
2. Authority.
 - a) The Contractor has the authority to execute this Contract, to make the representations and warranties set forth in it, and to perform the obligations of Contractor under this Contract in accordance with its terms.
 - b) This Contract has been validly executed by an authorized representative of the Contractor and constitutes a valid and legally binding and enforceable obligation of Contractor.
3. Government Authorizations and Consents. The Contractor has or will obtain prior to the commencement date such licenses, permits, and other authorizations from federal, state, and other governmental authorities, as are necessary for the performance of its obligations under this Contract.
4. Compliance with Laws. The Contractor is not in violation of any applicable law, ordinance, or regulation, the consequence of which will or may materially affect Contractor's ability to perform its obligations under this Contract. The Contractor is not subject to any order or judgment of any court, tribunal, or governmental agency that materially and adversely affects its operations or assets in the state of Washington, or its ability to perform its obligations under this Contract.

5. Accuracy of Information. None of the representations or warranties in this Contract, and none of the documents, statements, certificates, or schedules furnished or to be furnished by Contractor pursuant hereto or in connection with the performance of the obligations contemplated under this Contract, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements of fact contained therein not misleading.
6. Independent Examination. In accepting these responsibilities, the Contractor represents and affirms that it has made its own examination of all conditions, facilities, and properties affecting the performance of this Contract and of the quantity and expense of labor, equipment, material needed, and of applicable taxes, permits, and laws.

Section 75. Compliance with Law

The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Washington; the Charter, Municipal Code, and ordinances of the City of Seattle; and rules, regulations, orders, and directives of their respective administrative agencies and officers.

COMPENSATION

Section 100. Payment for Transportation Services.

The City shall pay the Contractor monthly for all tons of Organic Waste transported by the Contractor during the month documented per Sections 1500 and 1510. From April 1, 2024 through March 31, 2025, the City will pay the Contractor a rate of \$615 per load transported in a Contractor Trailer, or \$590 per load transported in a City trailer, from the City's transfer stations, or from a City Contractor transfer station.

Section 105. Payment for Processing Services.

The City shall pay the Contractor monthly for all tons of Organic Waste processed by the Contractor during the month documented per Sections 1500 and 1510. From April 1, 2024 through March 31, 2025, the City will pay the Contractor a rate of \$52 per ton for processing services.

Section 110. Inflation Adjustment.

The City will compute compensation payable for the Contract year beginning April 1, 2025 and subsequent Contract years as follows:

The per load and per ton rates from the preceding year shall be multiplied by 1.0 plus **80%** of the percentage difference between the second-half annual consumer price index for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bellevue Area (CPI), Series ID No. CWURS49DSA, or successor indices and the previous year's CPI.

Section 150. Performance Fees.

The Contractor shall pay the City \$1 per each minute over 15 minutes if an empty Contractor trailer is not available at City transfer facility when needed for duration of more than 15 minutes.

Section 160. City Contract Fee Payment Procedure.

No later than the 10th of each month, the Contractor will submit an invoice and copies of weight information required pursuant to Sections 1500 and 1510. This invoice will be paid by the City to the Contractor by wire transfer on or before the 30th of the same month (or 20 calendar days after the invoice date, if the invoice/weight information is presented late).

EMPLOYEES, SUBCONTRACTORS, AND NON-DISCRIMINATION

Section 200. Paid Sick Time and Safe Time Ordinance

The Contractor shall comply with City's Paid Sick Time and Safe Time ordinance that requires companies to provide employees who work more than 240 hours within a year inside the City, with accrued paid sick and paid safe time for use when an employee or a family member needs time off from work due to illness or a critical safety issue. The ordinance applies to employers, regardless of where they are located, with more than four full-time equivalent employees. This is in addition and additive to benefits a worker receives under prevailing wages per WAC 296-127-014(4). City contract specialists may audit payroll records or interview workers as needed to ensure compliance to the ordinance.

Section 210. Minimum Wage and Wage Requirements

The Vendor shall comply to the extent applicable with the City's Minimum Wage labor standards as required by SMC 14.19, setting wage standards for employees working within City limits as well as the Wage Theft labor standards as required by SMC 14.20, setting basic requirements for payment of wages and tips for employees working within City limits and providing various payment documentation to employees.

Section 215. Wages and Increases for Employees.

Employee wages and compensation reflect Contractor commitments in their proposal submitted September 9, 2022, in response to the City's Request for Proposals. All wage increases for any employees of the Contractor granted during the term of this Contract shall be the sole responsibility of the Contractor. Any benefits or added costs resulting from changes in technology, laws and regulations, labor practices, availability of equipment, and other foreseeable business risks that may affect the performance of this Contract shall be to the Contractor's advantage or expense respectively.

Section 220. Payroll Records and Reports.

The Contractor and subcontractors shall keep complete and accurate payrolls containing the following information with respect to staff employed upon or under this Contract:

1. Name and residence address;

2. Classification of work;
3. City route number;
4. Number of hours employed each day, as verified by a time clock record;
5. Total number of hours employed each payroll period, as verified by a time clock record;
6. Rate of wages;
7. Total amount earned;
8. All deductions;
9. Net amount paid; and
10. Funds paid by employer for prevailing benefits.

All employees shall be paid in lawful money of the United States, in the full amount accrued to each employee at the time of closing the payroll.

The Contractor's and subcontractor's payroll records shall be available for inspection and audit by City staff, or a City third-party contractor, during office hours at the Contractor's Seattle office.

The Contractor and subcontractor shall submit electronic copy of payroll records with other above information if requested by the City.

The City shall withhold payment on all estimates for work performed by the Contractor under this Contract until: (1) all payroll reports, with the above information of said Contractor and subcontractor for work performed have been filed with the City; and (2) all employees doing collection work under this Contract have been paid the prevailing rate of wage as determined by the City.

Section 225. Withholding and Payment of Tax Liens and Judgments.

The City may withhold and pay to the United States of America or to any federal court, or the State of Washington or any state court, the amount claimed in a levy filed by the United States Internal Revenue Service or the Washington State Department of Revenue, respectively; the amount directed by a writ of garnishment, writ of attachment, or writ of execution, or by an order of a Bankruptcy Court, and/or by any court order, each for monies claimed from the Contractor. When presented with such an order, the City may in its discretion institute interpleader proceedings. The City may make a payment in conjunction with the interpleader action to the appropriate court. Payments so made or deposited into the registry of the court shall be satisfaction of payment due to the Contractor.

Section 240. Nondiscrimination - Employment Actions.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification.

The Contractor shall affirmatively try to ensure applicants are employed, and employees are treated during employment, without regard to race, color, age, sex, marital status, sexual orientation, gender identify, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical handicap. Such efforts include, but are not limited to: employment, upgrading, demotion, transfer, recruitment, layoff, termination, rates of pay or other compensation, and training.

Section 245. Affirmative Efforts in Hiring and Subcontracting.

In accordance with Seattle Municipal Code Chapter 20.42, Contractor shall actively solicit the employment and subcontracting of women and minority group members when there are commercially useful purposes for fulfilling the scope of work.

The WMBE Inclusion Plan submitted to the Contractor's Proposal is material to the Contract. The requirements and conditions stated in the WMBE Inclusion Plan shall be enforced as a contract requirement.

If upon investigation, the City finds probable cause to believe that the Contractor has failed to comply with the requirements of this Section, the Contractor shall be notified in writing. The City shall give the Contractor an opportunity to be heard with ten (10) calendar days' notice. If, after the Contractor's opportunity to be heard, the City still finds probable cause, then the City may suspend the Contract and/or withhold any funds due or to become due to the Contractor, pending compliance by the Contractor with the requirements of this Section.

Any violation of the mandatory requirements of this Section, or a violation of Seattle Municipal Code Chapter 14.04 (Fair Employment Practices), Chapter 14.10 (Fair Contracting Practices), Chapter 20.45 (City Contracts – Non-Discrimination in Benefits), or other local, state, or federal non-discrimination laws, shall be a material breach of Contract for which the Contractor may be subject to damages and sanctions provided for by the Contract and by applicable law. In the event the Contractor is in violation of this Section shall be subject to debarment from City contracting activities in accordance with Seattle Municipal Code Section 20.70 (Debarment).

Section 250. Equal Benefits.

The Contractor shall comply with the requirements of SMC Ch. 20.45 and Equal Benefits Program Rules implementing such requirements, under which the Contractor is obligated to provide the same or equivalent benefits ("equal benefits") to its employees with domestic partners as the Contractor provides to its employees with spouses. At the City's request, the Contractor shall provide complete information and verification of the Contractor's compliance with SMC Ch. 20.45. Failure to cooperate with such a request shall constitute a material breach of this Contract.

Remedies for Violations of SMC Ch. 20.45: Any violation of this Section shall be a material breach of Contract for which the City may:

1. Require Contractor to pay actual damages for each day that the Contractor is in violation of SMC Ch. 20.45 during the term of the Contract; and/or
2. Terminate the Contract; and/or
3. Disqualify Contractor from bidding on or being awarded a City contract for a period of up to five (5) years; and/or
4. Impose such other remedies as specifically provided for in SMC Ch. 20.45 and the Equal Benefits Program Rules promulgated thereunder.

Section 255. Americans with Disabilities Act.

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. If the Contractor is providing services, programs or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities, to people with disabilities based on such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate Contract termination.

Section 260. OSHA/WISHA Compliance.

The Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the State of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all services under this Contract will conform to and comply with said standards and regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against the City as a result of the Contractor's failure to comply with the acts and standards thereunder and for the failure of the services furnished under this Contract to so comply.

Section 265. Notification Requirements for Federal Immigration Enforcement.

Prior to responding to any requests from an employee or agent of any federal immigration agency including the Immigration and Customs Enforcement (ICE), the U.S. Department of Homeland Security (DHS), Homeland Security Investigations (HSI), Enforcement Removal Operations (ERO), Customs and Border Protection (CBP), and U.S. Citizenship and Information Services (USCIS) regarding this Contract, the Contractor shall notify the City immediately. Such requests include but are not limited to requests for data or information (written or verbal) about workers engaged in the work of this Contract. To the extent allowed by law, no access or information shall be provided without prior review and consent of the City. The Contractor will request the federal authority wait until the City is able to verify the credentials and authority of the requesting agent and direct the Contractor on how to proceed.

Section 270. Workers Right to Know.

"Right to Know" legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-62-054 requires among other things that all manufacturers/distributors of hazardous substances, must include with each delivery

completed Material Safety Data Sheets (MSDS) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with: the identity of the hazardous material, appropriate hazardous warnings, and the Name and Address of the chemical manufacturer, improper, or other responsible party.

Labor and Industries may levy appropriate fines against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate information relative to “carcinogenic ingredients and “routes of entry” of the product(s) in question.

Section 280. Independent Contractor.

It is the intention and understanding of the parties that Contractor shall be an independent contractor and that the City shall be neither liable for nor obligated to pay sick leave, vacation pay, or any other benefit of employment, nor to pay any social security or other tax that may arise as an incident of employment. The Contractor shall pay all income and other taxes as due in a timely manner. Industrial or other insurance that is purchased for the benefit of the Contractor shall not be deemed to convert this Contract to an employment contract. It is recognized that Contractor may or will be performing work during the term for other parties and that the City is not the exclusive user of the services that Contractor provides.

Section 290. Key Persons and Subcontractors.

Contractor shall not transfer, reassign, or replace any individual or subcontractor that is determined to be essential or that has been agreed upon in the Contractor's Subcontracting (Inclusion) Plan, without express written consent of the City. If during the term of this Contract, any such individual leaves the Contractor's employment or any named subcontract is terminated for any reason, Contractor shall notify the City and seek approval for reassignment or replacement with an alternative individual or subcontractor. Upon the City's request, the Contractor shall present to the City, one or more subcontractors or individual(s) with greater or equal qualifications as a replacement. Continued achievement of the Subcontracting (Inclusion) Plan that was incorporated into this Contract by reference, if any, and the associated subcontract awards, aspirational goals and efforts, will be one of the considerations in approval of such changes. The City's approval or disapproval shall not be construed to release the Contractor from its obligations under this Contract.

SECURITY; LIABILITY; DAMAGES

Section 300. Performance Bond.

The Contractor shall provide and maintain always a valid Contractor's Performance and Payment Bond ("Bond") for thirty percent (30%) of the estimated annual revenue to the Contractor under the Contract. The Bond shall be issued for a period of not less than one year and the Contractor shall provide a new bond, or evidence satisfactory to the City of the renewability of the current bond at least 90 calendar days before it expires.

The initial Bond must be in place prior to the beginning of processing under this Contract.

The Bond shall be conditioned upon full performance of all obligations imposed upon the Contractor in this Contract. The Bond shall be subject to approval by the City Attorney as to the company, form, and sufficiency of surety. If the instrument is found by the City Attorney to be flawed, the Contractor must correct the flaw promptly prior to contract execution or the award may be terminated.

The Bond must be executed by a company that is included in the U. S. Department of the Treasury's Listing of Approved Sureties (Circular 570), is included on the Washington State Insurance Commissioner's Authorized Insurance Company List and is acceptable to the City.

The Bond shall be in full force effect and shall be the obligation of the surety unless the Contractor shall faithfully perform all the provisions of this Contract and pay all laborers, mechanics, subcontractors, materialmen, and all persons who shall supply such Contractor or subcontractors with provisions and supplies for the performance of this Contract. The Bond shall contain appropriate recitations that it is issued pursuant to this Section of this Contract, that it shall be construed to meet all requirements specified herein and that any condition or limitation in the Bond that conflicts with the conditions and requirements of this Section is void.

Failure of the Contractor to furnish and maintain the Bond shall be considered a material default of this Contract and grounds of its immediate termination at the option of the City.

Section 310. Default of Contractor.

This Section is independent, notwithstanding any other provisions of this Contract. Except as provided in the last paragraph of this Section, the Contractor may be held in default of the Contract in the event the Contractor:

1. Is unable to accept Organic Waste, for more than a 48-hour period for processing at the Primary, Secondary, or back-up Processing Facility or alternate facility approved by the City;
2. Fails to comply with the terms of any of the Sections 200 to 290;
3. Fails to furnish and maintain a Performance and Payment Bond per Section 300;
4. Fails to furnish and maintain the Insurance Requirements per Section 340;
5. Fails to provide timely and accurate Contractor records per Section 1500; or
6. Repeatedly neglects, fails, or refuses to comply with any material term of the Contract, after having received written notice of its obligation to do so.

To initiate proceedings under this Section, the City shall give notice to the Contractor and its surety of the location, time, and date within the following seven (7) calendar days of a meeting with the City's General Manager at which the Contractor will be given the opportunity to correct the deficiency above and to show cause why it should not be declared in default or why it should be given the opportunity to cure said default. In the event the Contractor fails to show, to the reasonable satisfaction of the City's General Manager, why the Contractor should not be declared to be in default of this Contract, the City's General Manager may make a declaration of default. In evaluating whether to make such a declaration of default, the City's General Manager shall, in her/his discretion, consider the severity of the alleged violations, and the overall performance of the Contractor under the Contract.

In declaring the Contractor to have defaulted on the Contract, the Director also may order the Contractor to discontinue further performance of work under the Contract and transfer the obligation to perform such work from the Contractor to the surety on the Contractor's performance Bond and take any other action it deems advisable.

Upon receipt of a notice that the work has been transferred to the surety without termination of the Contract, the surety shall take possession of all materials, supplies, technology, and equipment described in the most recent inventory submitted to the City pursuant to Sections 1020 and 1500 hereof, for the purpose of completing the work under the Contract; employ, by contract or otherwise, any person and all persons needed to perform the work; and provide materials, supplies, technology, and equipment required therefor. Such employment shall not relieve the surety of its obligations under the Contract and the bond. If there is a transfer to the surety, payments shall be made to the surety or its agent for all work performed under the Contract subsequent to such transfer, in amounts equal to those that would have been made to the Contractor had it performed in the manner and to the extent of the surety's performance, and the Contractor shall have no claim upon the same.

In the event the surety on the Contractor's performance Bond fails to assume or continue performances within 48 hours after its receipt of notice that the work has been transferred to such surety, the Contractor shall lease, sublease, or otherwise license the City to use all, or whatever portion is desired by the City, of the materials, supplies, technology, and equipment described on the most recent inventory submitted to the City pursuant to Section 1020 hereof, for collection purposes for a period of up to six (6) months following the date of the declaration of default by the City without requiring the City to execute any other document whatsoever to accomplish such lease, sublease, or license and without requiring the City to post any bond, pledge, deposit, or other security for such equipment and materials, but upon the condition that the City pay for the equipment, supplies, technology, and materials actually used for such collection a market rental that is no greater than (i) the monthly lease, in the event such property is leased by the Contractor, (ii) the periodic installment, in the event such property is being acquired under a purchase contract, (iii) the periodic financing interest and principal, in the event such property is being acquired under a purchase contract, or (iv) the periodic interest and principal, in the event such property is being acquired under a financing arrangement; provided, that under

no circumstances shall the City be liable during its use of such property for any arrearages, balloon payment, accrued interest, accelerated charges in the event of a default, or other extraordinary payment; nor shall the satisfaction thereof be a condition of the City's interim use of such property; provided, further, that such lease, sub-lease, or license shall be suspended the date the surety on the Contractor's bond or its agent accepts the transfer of work under the Contract.

In the event the City secures the performance of work under the Contract at a lesser cost than would have been payable to the Contractor had the Contractor performed the same, then the City shall retain such difference; but in the event such cost to the City is greater, the Contractor and its surety shall be liable for and pay the amount of such excess to the City in a timely manner.

All payments due the Contractor at the time of default, less amounts due the City from the Contractor, shall be applied by the City against damages suffered and expense incurred by the City by reason of such default, and any excess shall be paid to the Contractor unless otherwise provided herein.

Notwithstanding the provisions of this Section, a delay or interruption in the performance of all or any part of the Contract resulting from causes beyond the Contractor's control shall not be deemed to be a default and the rights and remedies of the City provided for herein shall be inapplicable; provided that labor disputes shall not be considered a cause beyond the Contractor's control.

Section 320. Ownership of Equipment.

All essential facilities, equipment, supplies, technology, and property used in the performance of this Contract shall be wholly owned by the Contractor; provided, that leases, conditional sale contracts, mortgages, or other agreements for the use or financing the purchase of vehicles, facilities, equipment, supplies, technology, and property may be allowed with the prior written approval of the City.

All such leases, conditional sale contracts, mortgages, or other agreements shall provide that in the event of the Contractor's failure to perform its obligations under this Contract, the City, at its option, shall have the right to take possession of and operate vehicles, facilities, equipment, supplies, technology, and property covered by such lease or agreement for the unexpired term of this Contract. No further encumbrance shall be placed upon any such vehicles, facilities, supplies, technology, or equipment without the prior written approval of the City.

Section 340. Insurance Limits.

At all times during the term of this Agreement, the Contractor shall maintain in force the following minimum levels of coverage and limits of liability for insurance or self-insurance ("Insurance"):

1. COMMERCIAL GENERAL LIABILITY (CGL) Insurance including coverage for:
 - Premises/Operations

- Products/Completed Operations
- Pollution – On-Site and Off-Site*
- Personal/Advertising Injury
- Contractual
- Independent Contractors
- Stop Gap/Employers Liability

Such Insurance must provide the following minimum limits of liability:

\$5,000,000	each occurrence Combined Single Limit bodily injury and property damage (CSL)
\$10,000,000	Products/completed operations aggregate
\$1,000,000	General aggregate
\$5,000,000	each accident/disease/policy limit

2. BUSINESS AUTOMOBILE LIABILITY INSURANCE for owned, non-owned, hired, and leased vehicles, as applicable, written on a form CA 00 01 or equivalent, including for City trailers when transported by the Contractor. Such insurance must provide a minimum limit of liability of \$1,000,000 CSL.
3. WORKERS' COMPENSATION INSURANCE as required by the Industrial Insurance laws of the state of Washington.
4. UMBRELLA/EXCESS/BUMBERSHOOT LIABILITY INSURANCE over CGL and automobile liability minimum limit shall be \$5,000,000 CSL (\$6,000,000 total limits requirement).

The limits of liability specified above may be satisfied with primary limits of liability or any combination of primary limits and excess/umbrella limits.

Section 350. Insurance Terms and Conditions.

1. **City of Seattle as Additional Insured:** The CGL, Auto, and excess/umbrella insurance shall include "the City of Seattle" as an additional insured for primary and non-contributory limits of liability.
2. **No Limitation of Liability:** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only; they shall not be construed to limit the liability of the Contractor or any insurer for any claim that is required to be covered hereunder to less than the applicable limits of liability stated in the declarations. Moreover, the City shall be an additional insured, where additional insured status is required, for the full available limits of liability maintained by vendor, whether those limits are primary, excess, contingent or otherwise. The Contractor expressly understands and agrees that this provision shall override any limitation of liability or similar provision in any agreement or statement of work between the City and the Contractor.

* Pollution Liability Insurance minimum limits of liability may be evidenced with separate coverage.

3. **Required Separation of Insured Provision; Cross-Liability Exclusion and other Endorsements Prohibited:** The Contractor's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. The Contractor's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the Contractor's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. The Contractor's CGL policy shall NOT include any of the following Endorsements (or their *equivalent endorsement or exclusions*): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer's Liability exclusion, (e) any "Insured vs. Insured" or "cross-liability" exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. The Contractor's failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Contract with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure insurance coverage with any related costs of premiums to be repaid by the Contractor or reduced and/or offset against the Contract.
4. **Claims Made Form:** If any policy is written on a claims made form, the retroactive date shall be prior to or coincident with the effective date of this Contract. Claims made coverage shall be maintained by the Contractor for a minimum of three (3) years following the expiration or earlier termination of this contract, and the Contractor shall provide the City with evidence of insurance for each annual renewal. If renewal of the claims made form of coverage becomes unavailable or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the City to assure financial responsibility for liability assumed under the contract.
5. **Deductibles and Self-Insured Retentions:** Any self-insurance retention or deductible in excess of \$ 25,000 that is not "fronted" by an insurer and for which claims the vendor or its third-party administrator is directly responsible for defending and indemnifying must be disclosed on the certificate of liability insurance. The Contractor agrees to defend and indemnify the City under its self-insured or deductible layer and upon City's request advise the full delivery address of the individual or department to whom a tender of a claim should be directed.
6. **Notice of Cancellation:** Under RCW 48.18.290 ("Cancellation by insurer") applicable to insurers licensed to do business in the State of Washington, the City, as a certificate holder for the insurance requirements specified herein and an additional insured, has an interest in any loss which may occur; written notice of cancellation must therefore be actually delivered or mailed to the City not less than

30 days prior to cancellation (10 days as respects non-payment of premium). As respects surplus lines placements, written notice of cancellation shall be delivered not less than 30 days prior to cancellation (10 days as respects non-payment of premium).

7. **Qualification of Insurers:** Insurers shall maintain A.M. Best's ratings of A- VII unless procured as a surplus lines placement under RCW chapter 48.15, or as may otherwise be approved by the City.
8. **Changes in Insurance Requirements:** The City shall have the right to periodically review the adequacy of coverages and/or limits of liability in view of inflation and/or a change in loss exposures and shall have the right to require an increase in such coverages and/or limits upon ninety (90) days prior written notice to the Contractor. Should the Contractor, despite its best efforts, be unable to maintain any required insurance coverage or limit of liability due to deteriorating insurance market conditions, it may upon thirty (30) days prior written notice request a waiver of any insurance requirement, which request shall not be unreasonably denied.
9. **Evidence of Insurance:** The Contractor must provide the following evidence of insurance:
 - a) A certificate of liability insurance evidencing coverages, limits of liability and other terms and conditions as specified herein;
 - b) An attached City of Seattle designated additional insured endorsement or blanket additional insured wording to the CGL/MGL (and if required Pollution Liability insurance policy).
 - c) A copy of all other amendatory policy endorsements or exclusions of the Contractor's insurance CGL/MGL policy that evidences the coverage required.

In the event that the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, the Contractor shall also cause a complete copy of the requested policy to be timely furnished to the City.

Section 360. Indemnity.

To the extent permitted by law, the Contractor shall protect, defend, indemnify, and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, fines, penalties, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, or trade secret arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, contract provision or term, or condition of regulatory authorization or permit, except for damages resulting from the sole negligence of the City. As to the City, the Contractor waives any immunity it may have under RCW Title 51 or any other Worker's Compensation statute. The parties acknowledge that this waiver has been negotiated by them, and that the contract price reflects this negotiation.

Section 370. Liquidated Damages.

This Section is independent of Section 310. Liquidated Damages pursuant to this Section shall be deducted from the monthly payment to the Contractor. These damages do not apply in the event that a major disaster or emergency causes a disruption in the Processing Facility operations or transportation services. The acts or omissions in the left-hand column are a breach of this Contract; the amounts in the right-hand column are set as Liquidated Damages.

<u>OMISSION</u>	<u>LIQUIDATED DAMAGE</u>
1. Failure to accept Organic Waste at the primary or back up receiving facility for more than a 3-hour period, during operating hours.	\$500 per trailer per hour
2. Failure to provide an empty Organic Waste trailer for more than a 3-hour period at the City's transfer facilities, or failure to remove a full trailer from the City's transfer facilities for more than 24-hour period.	\$500 per trailer per hour

Procedures for applying, appealing, and reversing liquidated damages will be included in the Operations Plan.

INFORMATION DISCLOSURE AND ETHICS PROVISIONS

Section 400. No disclosure unless required by law.

The parties agree that they will not permit the duplication, use, or disclosure of any information designated in advance by the other party as "Confidential and Proprietary" to any person (other than its own employee, agent, or representative who must have such information for the performance of that party's obligations hereunder) unless such duplication, use, or disclosure is specifically authorized in writing by the other party or is required by law. "Confidential and Proprietary" information does not include ideas, concepts, know-how, or techniques related to information that, at the time of disclosure, is in the public domain unless the entry of that information into the public domain is a result of any breach of this Contract. Likewise, "Confidential and Proprietary" information does not apply to information that is independently developed, already possessed without obligation of confidentiality, or rightfully obtained from a third party without an obligation of confidentiality.

Section 410. Contractor's Understanding and Obligations.

The Contractor understands that any records (including but not limited to proposal submittals, the Contract, and any other contract materials) it submits to the City, or that are used by the City even if the Contractor possesses the records, are public records under Washington State law, RCW Chapter 42.56. Public records must be promptly disclosed upon request unless a statute exempts them from disclosure. The Contractor also understands that even if part of a record is exempt from disclosure, the rest of that record generally must be disclosed.

The Contractor must separate and clearly mark as “proprietary” information all records related to this Contract or the performance of this Contract that the Contractor believes are exempt from disclosure. The Contractor is to be familiar with potentially applicable public disclosure exemptions and the limits of those exemptions and will mark as “proprietary” only information that the Contractor believes legitimately fits within an exemption and will state the statutory exception upon which it is relying.

If the City notifies the Contractor of a public records request, and the Contractor believes records are exempt from disclosure, it is the Contractor's responsibility to make its own determination and pursue a lawsuit under RCW 42.56.540 to enjoin disclosure. The Contractor must obtain the injunction and serve it on the City before the close of business on the tenth business day after the City sent notification to the Contractor. It is the Contractor's discretionary decision whether to file the lawsuit.

If the Contractor does not timely obtain and serve an injunction, the Contractor is deemed to have authorized releasing the record.

Notwithstanding the above, the Contractor must not take any action that would affect (a) the City's ability to use goods and services provided under this Contract or (b) the Contractor's obligations under this Contract.

The Contractor will fully cooperate with the City in identifying and assembling records in case of any public disclosure request.

Section 420. The City's Obligations.

The City will disclose those parts of records the Contractor has marked as “proprietary information” only to authorized persons unless: (a) the City discloses the records in response to a public records request or (b) the Contractor has given the City express advance written permission to disclose the records. “Authorized persons” means those City officers, employees, contractors and consultants for whom the proprietary information is necessary to perform their duties or obligations to the City. The term “proprietary information” does not include ideas, concepts, know-how or techniques related to any information that, at the time of disclosure, is in the public domain, unless the entry of that information into the public domain is a result of a breach of this Contract.

If the City receives a public records request for records that Contractor has marked as “proprietary information,” the City may promptly notify the Contractor of the request. The

City may postpone disclosing these records for ten (10) business days after it has sent notification to the Contractor, in order to allow the Contractor to file a lawsuit under RCW 42.56.540 to enjoin disclosure. It is the Contractor's discretionary decision whether to file the lawsuit.

If the City has notified the Contractor of a public records request, and the Contractor has not obtained an injunction and served the City with that injunction by the close of business on the tenth business day after the City sent notice, the City may disclose the record.

The City has no other obligations concerning records the Contractor has marked as "proprietary information" under this Contract. The City has no obligation to claim any exemption from disclosure. The City is not obligated or liable to the Contractor for any records that the City releases in compliance with this Section or in compliance with the order of a court of competent jurisdiction.

Section 440. Violation of Antitrust or Corrupt Practice Laws.

In the event the Contractor is found to be guilty of a violation of antitrust or corrupt practice laws for acts performed in Washington during the term of this Contract, the City at its election may terminate this Contract by giving the Contractor written notice of the City's intent to terminate this Contract effective on the date designated by the City in the notice. For purposes of this Section, the "antitrust or corrupt practice laws" shall include all civil and criminal statutes, both state and federal, pertaining to the antitrust laws, fair practices acts, and any laws governing corrupt standards or practices. Further, for the purposes of this Section, the Contractor shall be considered to be "guilty" of a violation of such antitrust or corrupt practice laws if the Contractor or any of its officers or management employees: (1) enters a plea of guilty to a charge, (2) enters a plea of nolo contendere, or (3) is found guilty of a criminal violation or is held liable for a civil violation by the highest court or tribunal which considers the case.

Section 450. No Conflict of Interest.

Contractor confirms that Contractor does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be involved in the Contractor selection, negotiation, drafting, signing, administration, or evaluating the Contractor's performance.

Section 460. No Gifts or Gratuities.

Contractor shall not directly or indirectly offer anything of value (such as retainers, loans, entertainment, favors, gifts, tickets, trips, favors, bonuses, donations, special discounts, work or meals) to any City employee, volunteer, or official, that is intended, or may appear to a reasonable person to be intended, to obtain or give special consideration to the Vendor. Promotional items worth less than \$25 may be distributed by the vendor to City employees if the Vendor uses the items as routine and standard promotions for business. Any violation of this provision may result in termination of this Contract. Nothing in this Contract prohibits donations to campaigns for election to City office, so long as the donation is disclosed as required by the election campaign disclosure laws of the City and of the State.

Section 470. Campaign Contributions.

Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least \$250,000 in contracts with the City in the last two years or who has paid at least \$5,000 in the last 12 months to lobby the City.

Section 480. Involvement of Current and Former City Employees.

If a Contractor has any current or former City employees, official, or volunteer working or assisting on solicitation of City business or on completion of an awarded contract, you **must** provide written notice to SPU Contracting Division of the current or former City official, employee, or volunteer's name. The Vendor Questionnaire in your proposal included an initial Contractor listing. Contractor shall update the Contracting Division with any relevant changes. The Contractor shall be aware of and familiar with the Ethics Code (SMC 4.16) and educate workers accordingly.

Section 490. Ethics Code for Workers with 1,000 hours.

The Contractor shall provide annual list of workers that perform more than 1,000 hours of contract work within a rolling 12-month period. Such hours include performance under for the Contract, and any other hours that the worker performs for the City under other contracts. The Contractor shall advise such workers that they are subject to the City Ethics Code (SMC 4.16) and educate workers accordingly.

ANCILLARY PROVISIONS

Section 500. Assignment or Pledge of Moneys by the Contractor.

The Contractor shall not assign or pledge any of the monies due under this Contract without securing the written approval of the surety on the performance bond and providing at least thirty (30) calendar days' prior notice to the City of such assignments or pledge together with a copy of the surety's approval thereof. Such assignment or pledge, however, shall not release the Contractor or its sureties from any obligations or liabilities arising under or because of this Contract.

Section 505. Assignment; Subcontracting; Delegation of Duties.

Except for the subcontracting identified in the Contractor's proposal, the Contractor shall not assign or subcontract or transfer any of the work or delegate any of its duties under the Contract without the prior written approval of the City, which approval may be granted or withheld in the City's sole discretion.

Any subcontract made by Contractor shall incorporate by reference all the terms of this Contract except for Equal Benefit provisions (Section 250). Contractor shall ensure that all subcontractors comply with the obligations and requirements of the subcontract, except for Equal Benefit provisions (Section 250).

The City's consent to any assignment or subcontract shall not release the Contractor from liability under this Contract, or from any obligation to be performed under this Contract, whether occurring before or after such consent, assignment, or subcontract. In the event of

an assignment, subcontract, or delegation of duties, the Contractor shall remain responsible for the full and faithful performance of this Contract and the assignee, subcontractor, other obligor shall also become responsible to the City for the satisfactory performance of the work assumed. The City may condition its approval upon the delivery by the assignee, subcontractor, or other obligor of its covenant to the City to fully and faithfully complete the work or responsibility undertaken.

During the term of this Contract, the Contractor shall not have any ownership interest in any other company that has a contract for Organic Waste Processing with the City.

Section 510. Audit.

The Contractor shall maintain in its office in Stanwood, Washington full and complete accounting records, prepared in accordance with generally accepted accounting principles, reflecting the Contractor's work on this Contract. The City may require an audit of such books and records at any reasonable time. Such audit will be conducted by City staff or by a certified public accounting firm with experience in auditing public service companies selected by the City.

Upon request, the Contractor shall permit the City to inspect and audit all pertinent books and records of the Contractor, any subcontractor, or any other person or entity that performed work in connection with or related to this Contract, at any and all times deemed necessary by the City, including up to six (6) years after the final payment or release of withheld amounts has been made under this Contract. Such inspection and audit shall occur in Stanwood, Washington or other such reasonable location as the City selects. The Contractor shall supply the City with, or shall permit the City to make, a copy of any books and records and any portion thereof. The Contractor shall ensure that such inspection, audit, and copying right of the City is a condition of any subcontract, agreement, or other arrangement under which any other person or entity is permitted to perform work under this Contract.

Section 520. Contract Rights.

The parties reserve the right to amend this Contract from time to time by mutual agreement in writing. Rights under this Contract are cumulative, and in addition to rights existing at common law. Payment by the City and performance by the Contractor do not waive their contract rights.

Failure by either party on any occasion to exercise a contract right shall not forfeit or waive the right to exercise the right on another occasion. The use of one remedy does not exclude or waive the right to use another.

Section 525. Interpretation.

This Contract shall be interpreted as a whole and to carry out its purposes. This Contract is an integrated document and contains all the promises of the parties; no earlier oral understandings modify its provisions.

Captions and titles are for convenient reference only. A caption or titles does not limit the scope or add commentary to the text.

In the event of conflict between contract documents and applicable laws, codes, ordinances, or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this Contract to afford the City the maximum benefits.

Section 530. Law; Venue.

The laws of the State of Washington and Charter and Ordinances of the City shall govern the validity, construction and effect of this Contract. The venue for any claims, litigation, or causes of action between the parties shall be in the Superior Court of the State of Washington for King County.

Section 535. Notices.

All official notices or approvals shall be in writing. Unless otherwise directed, notices shall be delivered by messenger or by certified mail with delivery confirmation to the parties at the following respective addresses:

To the City:
Sally Hulsman
Solid Waste Contracts Manager
Seattle Public Utilities
700 5th Avenue, Suite 4900 *or*
PO Box 34018
Seattle, WA 98124

To the Contractor:
Jason Lenz
General Manager/VP
Lenz Enterprises, Inc.
5210 SR 532
PO Box 868
Stanwood, WA 98292

Either party may from time to time designate a new representative and/or address for notices.

Section 540. Severability.

Should any term, provision, condition, or other portion of this Contract or its application be held to be inoperative, invalid, or unenforceable, and the remainder of the Contract still fulfills its purposes, the remainder of this Contract or its application in other circumstances shall not be affected thereby and shall continue in force and effect.

Section 545. No Personal Liability.

No officer, agent, or authorized employee of the City shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

Section 550. Disputes

The City and Contractor shall maintain business continuity to the extent practical while pursuing disputes. Any dispute or misunderstanding that may arise under this Contract concerning Contractor's performance shall first be resolved, if mutually agreed to be appropriate, through negotiations between the parties' Contract representatives as listed in Section 535, or if mutually agreed, referred to the City's named representative and the

Contractor's senior executive(s). Either party may decline or discontinue such discussions and may then pursue other means to resolve such disputes or may by mutual agreement pursue other dispute alternatives such as mediation, arbitration, or alternate dispute resolution processes. Nothing in this dispute process shall in any way mitigate the rights, if any, of either party to terminate the Contract in accordance with the termination provisions herein.

Notwithstanding above, if the City believes in good faith that some portion of work has not been completed satisfactorily, the City may require the Contractor to correct such work prior to the City payment. In such event, the City must clearly and reasonably provide to Contractor an explanation of the concern and the remedy that the City expects. The City may withhold from any payment that is otherwise due, an amount that the City in good faith finds to be under dispute, or if the Contractor does not provide a sufficient remedy, the City may retain the amount equal to the cost to the City for otherwise correcting or remedying the work not properly completed.

Section 560. Termination.

Notwithstanding any other provisions of this Contract, the City may terminate this Contract upon a material default under or breach of this Contract by the Contractor. A termination for violation of an equal opportunity provision, or violation of any other provision shall take effect in fifteen (15) days after delivery of notice of termination.

Section 570. Force Majeure – Suspension.

This section applies in the event either party becomes unable to perform its obligations under this Contract because of a Force Majeure Event. A Force Majeure Event is an external event that is beyond the control of the party or its agents and that renders the party severely compromised in its ability to perform all its obligations under the Contract. Such events may include a natural or man-made disaster or an action or decree of a superior governmental body, which completely prevents the party from performing all its obligations under the Contract. In circumstances where the Contractor's performance of its obligations under the Contract is not completely prevented, but is disrupted by an emergency or disaster, the provisions of Section 580 shall apply. Labor Disputes shall not be considered a Force Majeure Event.

Should either party suffer from a Force Majeure Event, such party shall provide the other party with notice as soon as practical and shall act with speed and diligence to mitigate any potential damage that may result from the event and resume performance of all its obligations under the Contract as soon as possible. When notice has been properly provided, the obligations of both parties shall be suspended for the period of time the Force Majeure Event prevents the party from resuming performance of all its obligations under the Contract.

Section 580. Emergencies, Disasters – Major Service Disruption; Contingency Plan

This section applies in the event an emergency or disaster causes a major disruption to the Contractor's ability to maintain standard levels of service in the performance of its obligations under the Contract. Such events may include, but are not limited to, a severe

storm, high wind, earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist or cyber-attack, or any combination of the above. In such an event:

1. The City shall notify the Contractor of the emergency or disaster, describing the relevant circumstances arising from the event, and request emergency and priority services from the Contractor.
2. Upon such notice from the City, the Contractor shall consult with the City and exercise its best efforts in providing the emergency and priority services as requested by the City in as timely a manner as possible.
3. The Contractor shall make the City's customers its first priority, and its efforts to provide City's customers with emergency and priority services shall not be diminished as a result of the Contractor providing service to other customers.
4. If the Contractor is unable to respond in the time requested by the City, the Contractor shall respond as soon as practical. The Contractor shall immediately assist the City to the extent reasonable in providing services, which may include offering the City substitutions, provided that the Contractor obtains prior approval from the City for the substitutions.
5. The City shall compensate the Contractor for performing emergency and priority services under this section in a manner consistent with the compensation provisions of this Contract.

The Contractor and City shall jointly develop and maintain a Contingency Plan addressing the elements above. The Contractor shall take the lead in development of the Contingency Plan, with a City approved Plan completed on the date of execution of this Contract. The Contingency Plan shall be reviewed and updated annually by the Contractor beginning April 1, 2025, with each update subject to the City's approval.

PROCESSING SERVICES

Section 700. Organic Waste Receiving and Processing.

The Contractor shall be responsible for processing all Organic Waste received from the City and marketing all end products. The receiving facility shall contain, maintain, and routinely certify a truck scale for weighing all trucks in and out of the facility. Stored tare weights shall not be used for billing, unless approved by the City.

The Contractor's arrangements for processing organic material, at both the primary and back-up Processing Facilities, shall be subject to review and approval before the start of this Contract. All facilities and equipment covered under this contract shall be subject to inspection by City staff during business hours to confirm compliance with this Contract, the Operations Plan, the Contractor stated operating standards, and all the local, state, and

regional air authority rules and regulations pertaining to facility operations and related products.

Upon request, the Contractor will provide adequate space at the Receiving or Processing Facility for occasional waste composition sorts by City staff or consultants.

Section 710. Contractor Share of City Organic Waste.

The Contractor shall provide all transportation and processing services called for in this Contract for a minimum of 55% and maximum of 65% of the City's Organic Waste each month, as collected through the City's collection contracts and transfer stations (the "Contractor Share"). These limits can be adjusted by mutual agreement in writing by the City and the Contractor. The total tons processed by the Contractor shall not exceed 65,000 tons per year, unless mutually agreed by the City and the Contractor.

The City has the option of directing self-haul Wood Waste from the City transfer stations to alternative regional markets.

Section 720. Primary Organic Waste Receiving and Processing Facility.

The Contractor's Primary Processing Facility shall be its Lenz Enterprises Composting Facility located at 5210 SR 532, Stanwood, Washington.

The Primary Facility shall be open for City-delivered loads during normal business hours (7am (PST) to 5pm (PST) - Monday to Saturday) and will accept City-delivered loads outside of normal business hours as necessary.

Section 730. Back-up Organics Processing Facility.

To avoid disruption of the organics collection program through a temporary shutdown in receiving or processing, the Contractor shall have an agreement with other permitted receiving and processing facilities for processing the organic materials accepted under this contract. The Contractor represents and warrants that as of the date hereof each of the following facilities is so permitted and that each has agreed to receive or process Organic Waste as a back-up facility pursuant to this section:

Silver Springs Organics, 13835 Military Rd SE in Rainier, Washington
Recology Organics North Plains, 9570 NW 307th Avenue, North Plains, Oregon
Recology Organics Aumsville, 8712 Aumsville Highway in Salem, Oregon

If the Contractor is unable to meet pertinent local or state, local, or other regulations, or is unable for any reason whatsoever to accept for processing at its specified primary processing facility, the Contractor, at its own initiative or upon notification from the City, shall deliver Organic Waste at its expense to the back-up Organics receiving and/or processing facilities identified above.

The Contractor shall be responsible for all payments required to contract for use of the back-up facility. The City shall bill the Contractor for any additional City operational costs

as a result of the Contractor delivering Organic Waste to the back-up facility. The City will document these operational costs.

Section 740. Contaminants.

The City will be responsible for the disposal of Contaminants delivered to Contractor by the City or any other City contractor. The Contractor will, without cost to the City, segregate the contaminants (segregating tires separately) at the primary or back-up facilities, for the City to transport back to a City transfer station or other disposal facility.

The maximum contaminants that can be returned to the City shall be based on organic waste composition studies conducted by the City approximately every four (4) to six (6) years. If requested by the City, the Contractor shall provide sufficient space and access at their receiving facility to support contamination sorts.

The Contractor may reject loads or partial loads with excessive or high-risk contamination prior to processing, including loads with Moderate Waste, Dangerous Waste, marijuana debris, or similar waste under special classification.

The City will coordinate and implement customer education and enforcement efforts, in conjunction with City-contracted collectors to minimize contamination. The City will monitor loads of Organic Waste at City stations to minimize loading of contamination and customer carts when identified and feasible.

Section 750. End Products.

The Contractor will process Organic Wastes into marketable products such as soil amendments, mulch, animal feed product, or gaseous and liquid byproducts from anaerobic digestion. The Contractor is responsible for transporting and marketing all end products. Marketing of the product is at the Contractor's risk, expense, and profit (or loss). The Contractor is responsible for marketing of any electrical energy or fuel produced from anaerobic digestion technologies.

The Contractor will routinely test end products to ensure that they meet relevant regulatory standards. Composter end products shall meet the State's Compost Quality Standards as specified under WAC 173-350-220 and any subsequent revisions or replacement statutory requirements. The Contractor will share the testing results of end products, through standard reports, as reported to Department of Ecology and the local health department as requested by the City.

Section 760. Promotional Partnerships.

The Contractor will support outreach partnerships with the City to increase diversion and reduce contamination, including educational site tours, event tables and staffing, product giveaway, and other outreach opportunities. The Contractor will provide retail product from the processed Organic Wastes available for purchase by City residents and businesses, provide annual free finished compost product opportunities for City residents, and support including up to four public give-away events per year. Contractor support for product give-

away events will include site identification in the City, event planning, and staffing, along with 50 to 100 yards of donated compost per event.

Section 780. Disposal Prohibition.

The Contractor is prohibited from disposing of Organic Waste delivered under this Contract as Garbage or marketing products that the Contractor knows, or has reason to know, will be disposed of in a landfill or incinerator, or disposed of as Garbage. Violation of this Contract provision shall be cause for termination.

Section 790. Pilot Tests.

The City may require the Contractor to conduct pilot tests that temporarily change one or more provisions of this Contract. A pilot test is an experiment with a new processing method, and/or a different type of service. A pilot test may require additional record keeping. The City will provide sufficient advance notice for the pilot. The City and the Contractor shall negotiate in good faith, confirm a written plan, and sign a letter of agreement covering the expected cost and the pilot program duration prior to commencing any such test.

HAULING SERVICES

Section 800. Organic Waste Trailers.

The Contractor shall supply and maintain sufficient number of Organic Waste trailers to accommodate the shipment of the Contractor's Share of Organic Waste. This requirement shall include a sufficient number of trailers so that an empty trailer is always available when needed at each operating City transfer station, including during periods of peak volumes and/or transportation interruptions.

The trailers shall be compatible with the City operations, including the compactors, top load stations, and shuttling operations at City facilities. The trailers shall be capable of carrying loads up to 30 tons and be constructed and sealed so as to prevent leakage of solid or liquid waste during storage and transport. The Contractor shall sweep and/or wash each trailer, internally and externally, as frequently as necessary to avoid public nuisance. Additional details on trailer maintenance will be captured in the Operations Plan.

The Contractor shall provide to the City, by March 1, 2024, a complete inventory showing each trailer (type, capacity) used for performing the Contract. The Contractor may change equipment from time-to-time but shall notify the City of new or temporary replacements prior to their use on this Contract. The Contractor shall maintain a trailer fleet during the performance of this Contract at least equal to that described in the initial inventory.

Section 810. City Responsibilities for Trailers.

The City will provide on-site storage for up to five Contractor trailers at the City's north transfer station trailer yard and five Contractor trailers at the City south transfer station trailer yard. The Contractor will have access to the trailer yard at the City's north station daily between 7am to 6:30 pm. The Contractor will have 24-hour access to the trailer yard

at the City's south station. Access hours can be modified by mutual agreement in the Operations Plan.

The City will retrieve empty trailers from the trailer yard at each City facility, load the trailers, and return full trailers to the same trailer yard. The City will load trailers from the Contractor and the City's other Organic Waste Processing contractor at a frequency that fulfills the Contractor's Share of Organic Waste each month. The City will notify the Contractor immediately when a Contractor empty trailer leaves the trailer yard for loading and when the trailer is full and ready for removal.

The City shall use reasonable care in the handling and security of trailers and shall be responsible for repair or replacement of trailers if the City damages or destroys a trailer. The Contractor will notify the City within one-week of any damage caused by City staff or operations. Notification will include incident timing, details, and photograph of the trailer damage. If the Contractor fails to provide the required information within one-week of any damage, its claim is waived. The Contractor is responsible for maintaining the trailers and ordinary wear and tear.

Section 830. Organic Waste Transportation.

The Contractor shall transport the Contractor's Share of Organic Waste in Contractor trailers from the City transfer station trailer yards to the Primary or Back-up Processing Facilities. If requested by the City, the Contractor shall also provide transportation of Organic Waste in City trailers. The Contractor shall be responsible for any damage to City trailers resulting from Contractor transportation.

Contractor long-haul trucks used for this Contract shall be compatible with City trailers and meet or exceed specified emission standards. Contractor truck drivers performing under this Contract will be permanent employees with wages and benefits consistent with Contractor commitments in the Contractor Proposal submitted for this Contract.

The Contractor shall notify the City immediately when the Contractor delivers an empty trailer to a City trailer yard and when the Contractor removes a full trailer from City trailer yard. The Contractor shall remove trailers from the City trailer yard within 24 hours of notification from the City. Contractor and City notification procedures will be described in the Operations Plan.

Section 840. Transportation from City Contractor Stations.

The Contractor shall also provide trailers and transportation services for a City contracted transfer facility trailer yard, if directed by the City, in lieu of providing trailers and transportation from the City's North or South station trailer yard. The City will provide 30 days' notice prior to directing the Contractor to transport from City contract station and 30 days' notice prior to discontinuing the service.

PERFORMANCE, COORDINATION AND BEST PRACTICES

Section 1400. Performance Expectations.

The following expectations are established for services under this Contract:

1. Turn times for City loads at primary and backup facilities under 45 minutes.
2. Availability of an empty trailer at all times when needed at each operating City transfer station, including during periods of peak volumes and/or transportation interruptions;
3. City notification within 10 minutes when the Contractor delivers an empty trailer to a City trailer yard and when the Contractor removes a full trailer from City trailer yard;
4. Remove trailers from the City trailer yard within 24 hours of notification from the City;
5. Submit all required data and reports within the time periods specified and consistently provide correct information.
6. Other items as mutually agreed.

Section 1420. Meetings and Communication.

In order to minimize problems during implementation of the Contract, to provide a forum for discussing and resolving any operational questions or issues that may arise, and for updating the Operations Plan, the parties' representatives agree to meet on a monthly basis, unless otherwise mutually agreed.

Section 1440. Operations Plan.

The Contractor and the City shall develop an Operations Plan after the Contract is signed and prior to beginning services. This Operations Plan will include further details and protocol regarding City and Contractor communication and coordination, key staff contacts and roles, trailer damage protocol, transportation of City trailers, data communications, product promotion and give aways, and other elements shared by the Contractor and the City. The Operations Plan will be reviewed and updated by the parties annually by April 1st during the Contract term. The Operations Plan shall not contain procedures, activities, or schedules that conflict with any terms of this Contract.

Section 1450. Sustainable Business Practices.

Contractors shall use environmentally preferable practices and products to perform City services, including commitments in the Contractor Proposal for this Contract. The Contractor shall use Green Seal, Eco Logo, or other certified cleaning products, where applicable, in performance of cleaning work. The Contractor shall use 100% post-consumer recycled content, chlorine-free paper where possible. Contractors shall use

double-sided materials prepared for the City under this Contract, except when impracticable due to the nature of the product.

REPORTING AND DATA REQUIREMENTS

Section 1500. Scale and Trip Records.

The Contractor shall provide to the City by the close of business on Wednesday of each week, in an electronic format specified by the City, a listing of the previous week's weight receipts for all materials received from the City by the Contractor at the Processing Facility. Information must include gross and net weights, truck number, trailer number, City load identification, station source, date, time entering and leaving, and other trip and load data. The Contractor shall provide corrected or missing records within five (5) working days of City request, in format specified by the City. Specific details on reporting format, procedures, and coordination will be captured in the Operations Plan.

The Contractor shall keep as back-up a paper copy of each weight transaction. Weights must be obtained from certified private scales approved by the City, or other scales approved by the City. The City has the option of requiring any private scales to be certified as frequently as quarterly. Falsified or altered weight information shall be cause for Contract termination.

Section 1510. Monthly and Quarterly Reports.

The Contractor shall submit monthly reports for the length of the Contract period commencing with initiation of Organic Waste processing. These reports shall be provided in electronic format specified by the City within ten (10) working days after the end of each month. The Contractor shall not receive its monthly compensation until all items required in the report are submitted to the City. At a minimum, the reports shall include:

1. Summary of tonnages of all received material by source and type, and
2. Contaminants summary and listing of individual weight receipts for Contaminants delivered to the City for disposal.

Contractor shall submit a quarterly report within fifteen (15) working days of the close of the quarter, which shall include:

1. Summary of monthly data for quarter and contract year to date;
2. Summary of end products sold and residuals disposed;
3. Discussion of problems and noteworthy experience in program operation; and
4. Contractor recommendations for improvements.

The City shall submit a quarterly report to the Contractor by the 20th of the month following the end of the quarter, which shall include:

1. Summary of hauling and processing for prior quarter;
2. Projected hauling and processing plans for next quarter; and
3. Summary of recent partnerships and future opportunities with the Contractor to improve operations and coordination.

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the parties have executed this Contract by having their authorized representatives affix their signatures below.

LENZ ENTERPRISES, INC

**THE CITY OF SEATTLE
SEATTLE PUBLIC UTILITIES**

By _____
Jason Lenz
General Manager/VP

By _____
Andrew Lee
General Manager/CEO
Date _____

Date _____

Authorized by City Ordinance _____

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Seattle Public Utilities	Angela Wallis	Akshay Iyengar

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to Seattle Public Utilities; authorizing the General Manager/CEO of Seattle Public Utilities to execute contracts with Lenz Enterprises, Inc. and Cedar Grove Composting, Inc for organic waste processing services; and ratifying and confirming certain prior acts.

Summary and Background of the Legislation:

The organics processing contracts for Seattle Public Utilities (SPU) expire on March 31, 2024. SPU issued a Request for Proposals last year for new contracts and reviewed the submitted proposals. The utility selected two firms based on the evaluation criteria in the RFP and negotiated new six-year processing contracts that will begin in April 2024. The selected firms are the current service providers, Lenz Enterprises, Inc. and Cedar Grove Composting, Inc. This ordinance would authorize SPU to sign and implement the contracts.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ☐ Yes ☒ No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ☐ Yes ☒ No

The new organics processing contracts will be effective April 2024. The new contracts are estimated to cost \$5.6M in 2024, in line with the \$5.5M for that year assumed for the adopted 2023-2025 solid waste rates. The new costs for the processing contracts will be incorporated into the 2024 budget development.

Projected contract costs for the six-year term (2024-2029) are in line with the \$36.3M projection included in the latest solid waste rate study. Annual inflation adjustments are at 80% CPI, the same terms as the prior organics contract.

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
No.

Are there financial costs or other impacts of *not* implementing the legislation?

The current organics processing contracts expire in March 2024. Without the new contracts in place, there would be no mechanism for the City to process organic material collected from customers.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

No

b. Is a public hearing required for this legislation?

No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

d. Does this legislation affect a piece of property?

No

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

N/A

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

N/A.

July 14, 2023

MEMORANDUM

To: Transportation and Seattle Public Utilities Committee
From: Brian Goodnight, Analyst
Subject: CB 120612: Organic Waste Processing Contracts

On July 18, 2023, the Transportation and Seattle Public Utilities Committee will consider [Council Bill \(CB\) 120612](#), authorizing the General Manager and Chief Executive Office of Seattle Public Utilities (SPU) to execute contracts with Cedar Grove Composting, Inc. (Cedar Grove) and Lenz Enterprises, Inc. (Lenz) for organic waste processing services.

This memorandum provides background information and a summary of the major components of the contracts.

Background

In April 2013, the Council approved contracts with Lenz and PacifiClean Environmental of Washington, LLC (PacifiClean), via [Ordinance 124151](#), for organic waste processing services beginning in April 2014 and continuing through March 2020. The contracts also contained options for two two-year extensions which could extend the term through March 2024.

Due to agricultural regulations in the Central Washington area in which it operated, PacifiClean ceased operating in 2015 and the organic waste that PacifiClean was supposed to process, approximately 30 percent of the City's total, was diverted to an interim backup facility in east King County. PacifiClean officially notified the City in November 2016 that it would be unable to continue providing processing services. In August 2017, the Council approved [Ordinance 125389](#) authorizing SPU to enter into a contract with Cedar Grove to process the organic waste that PacifiClean was originally contracted to process. Cedar Grove began processing the City's organic waste in September 2017 and the contract continued through March 2020, with the option to extend through March 2024.

The City exercised its options to extend the organic waste processing contracts for both Lenz and Cedar Grove through March 2024. In preparation for the expiration of the contracts, in June 2022, SPU issued a [Request for Proposals \(RFP\)](#) for "processing yard debris, food scraps, food-soiled paper, compostable food packaging, and compostable bags received through the City's transfer stations and through the City's solid waste collection contracts. Processing includes composting and/or anaerobic digestion into marketable end products such as compost, mulch, biogas for energy generation or fuel, and digestate for composting and/or land application."

Summary of the Proposed Contracts

SPU received four responses to the RFP and ultimately selected the two incumbent firms, Cedar Grove and Lenz, based on the evaluation criteria in the RFP. If approved, the proposed contracts for Cedar Grove ([Attachment 1 to the CB](#)) and Lenz ([Attachment 2 to the CB](#)) would be in effect from April 1, 2024, through March 31, 2030. The contracts also provide the City with the unilateral right to extend the terms for up to three successive two-year periods which, if exercised, would allow the contracts to be in effect through March 2036.

Services

SPU expects that the contractors will process approximately 90,000 tons of organic waste annually that is collected through the City's collection contracts and transfer stations. The amount of organics collected has decreased during the past two years (from approximately 96,000 tons in 2020 to about 81,000 tons in 2022), but SPU anticipates the tonnage to increase again in the future.

The proposed contracts specify that Cedar Grove would provide processing services for a minimum of 35 percent and a maximum of 45 percent of the collected organic waste each month, but the total tons processed will not exceed 6,000 tons per month unless mutually agreed by the City and Cedar Grove. The City will be responsible for transporting and delivering the organic waste to Cedar Grove facilities, but the proposed contract also contains a provision allowing the City to request that Cedar Grove provide interim hauling services if necessary.

Lenz would be responsible for processing a minimum of 55 percent and a maximum of 65 percent of the City's collected organic waste each month, and the total tons processed may not exceed 65,000 tons per year unless mutually agreed by the City and Lenz. Consistent with the current Lenz contract, Lenz will be responsible for transporting its share of the City's organic waste to its processing facilities.

The contractors will process the organic waste into "marketable products such as soil amendments, mulch, animal feed product, or gaseous and liquid byproducts from anaerobic digestion." The contractors are responsible for transporting and marketing all end products, taking on the risk and any profit or loss stemming from the marketing of the products, and routinely testing end products to ensure that they meet regulatory standards. Additionally, the contractors are prohibited from disposing of any organic waste covered by the contracts or marketing products that the contractors know or believe will be disposed of in a landfill or incinerator.

Both contracts specify that the City will be responsible for the disposal of any contaminants that are present in organic waste loads. The contractors will segregate the contaminants and the City will transport the material back to a City transfer station or other disposal facility.

Costs

There are two types of payments for services described in the proposed contracts: processing and transportation. Table 1 shows the proposed processing and transportation payment rates compared against the rates from the current contracts. The proposed rates included in the table reflect the rates that would be in effect from April 1, 2024, through March 31, 2025. Consistent with the existing contracts, the proposed rates would increase annually by 80 percent of the consumer price index (CPI) for the local area.

Table 1: Existing and Proposed Payment Rates

Contract Element	Existing Rates	Proposed Rates
Cedar Grove		
Processing Services	\$62.75 per ton	\$69.00 per ton
Back-Up Transportation Services	n/a	\$515.00 per load
Lenz		
Processing Services	\$39.76 per ton	\$52.00 per ton
Transportation Services	\$560.12 per load from South Transfer Station	\$615.00 per load in a contractor trailer
	\$507.24 per load from North Transfer Station	\$590.00 per load in a City trailer

Overall, the contracts are expected to cost approximately \$5.6 million in 2024, which is in line with the existing Council-adopted solid waste rate path.

Public Benefits

The proposed contracts specify that Cedar Grove and Lenz will support outreach partnerships with the City to “increase diversion and reduce contamination, including educational site tours, event tables and staffing, product giveaway, and other outreach opportunities.” The product giveaway support for each contractor includes up to four events per year with 50 to 100 yards of donated compost per event. The contractors will also provide additional discounted product opportunities, such as for schools and community organizations.

Next Steps

If the Committee recommends passage of the legislation to the Council on July 18, then the Council could take final action on CB 120612 as soon as July 25.

If the Committee does not approve the legislation or would like to have modifications made to the proposed contracts, SPU would need to reopen negotiations with the contractors. The current organic waste processing contracts expire at the end of March 2024, and without new contracts in place, the City would not have a mechanism for processing organic waste collected from customers.

cc: Esther Handy, Director
Aly Pennucci, Deputy Director



Organics Processing Contracts

Ordinance Consideration

Transportation and SPU Committee | July 18, 2023

Seattle Public Utilities | Solid Waste Line of Business

 City of Seattle

Legislation Purpose

CB 120612 - To authorize Seattle Public Utilities to execute contracts with Lenz Enterprises, Inc. and Cedar Grove Composting, Inc to continue to provide organic waste processing services in the City of Seattle

Agenda

- Organics Processing Contract Overview
- Timeline
- SPU Organics Processing RFP Elements
- Contracts Highlights
- Financial Impacts

Organics Processing Contract Overview

- SPU's organics processing contracts expire on March 31, 2024.
- Request for Proposal issued last year for new contracts.
- Lenz Enterprises and Cedar Grove Composting, the current service providers, were selected and both firms negotiated new six-year processing contracts to begin in April 2024.
- This ordinance would authorize SPU to sign and implement the contracts.

Organics Processing Contracts - Timeline

June 2022:	RFP Released
Sept 2022:	Responses due
October 2022:	Interviews (all respondents)
November 2022:	Two respondents selected
Winter-Spring '22-23:	Negotiations
July-Aug 2023:	Briefings; ordinance consideration

SPU Organics Processing RFP Elements

- Processing of all types of compostable wastes, including yard debris, food scraps, and compostable food packaging.
- Allow for vendor flexibility in contract 'share', start date, and end dates.
- Proposals evaluated based on system costs, vendor experience, performance & reliability, safety & labor, community & environmental impacts.
- Optional vendor hauling support to supplement SPU hauling.
- Optional pet waste & compostable diaper processing.

Final Contracts Highlights

Terms

- April 1, 2024 start



40%



60%

- 6-year terms with 3, 2-yr extensions at City option.
- Prices keep SPU within rate path

New for 2024

- Clear Standards for Foodservice Ware:



+ Independent Certifier

- More peak month SPU Hauling to Cedar Grove Maple Valley
- Improved reporting

Financial Impacts

- New contracts estimated to cost \$5.6M in 2024, in line with the \$5.5M for that year assumed for the adopted 2023-2025 solid waste rates.
- New costs will be incorporated into the 2024 budget development.
- Projected contract costs for the six-year term (2024-2030) are in line with the \$36.3M projection included in the most recent solid waste rate study.
- Annual inflation adjustments are at 80% CPI, the same terms as the prior organics contract.

Questions?

