CITY OF KIRKLAND
CITY COUNCIL

Joan McBride, Mayor • Penny Sweet, Deputy Mayor • Dave Asher • Jessica Greenway
Doreen Marchione • Bob Sternoff • Amy Walen • Kurt Triplett, City Manager

Vision Statement

Kirkland is an attractive, vibrant, and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • www.kirklandwa.gov

AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, October 4, 2011
6:00 p.m. – Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov, or at the Public Resource Area at City Hall on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*, Peter Kirk Room
   - *a.* Reviewing Reserve Policies and Recommendations
4. *EXECUTIVE SESSION*
   - *a.* To Discuss Potential Litigation
   - *b.* To Discuss Property Acquisition
5. *HONORS AND PROCLAMATIONS*
   - *a.* Walk Your Child to School Week Proclamation
   - *b.* Fire Prevention Week Proclamation
6. *COMMUNICATIONS*
   - *a. Announcements*
   - *b. Items from the Audience*
   - *c. Petitions*

QUASI-JUDICIAL MATTERS Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

GENERAL CORRESPONDENCE Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

7. SPECIAL PRESENTATIONS

a. Green Tips

b. Transportation Commission Work Plan

c. Kirkland Performance Center, Executive Director Dan Mayer

8. CONSENT CALENDAR

a. Approval of Minutes: September 20, 2011

b. Audit of Accounts:

Payroll $

Bills $

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

(1) Ratification of the Police Guild Commissioned Staff Agreement 2010 -2013

(2) Resolution R-4893, Approving the Second Amendment to the Interlocal Agreement Between the City of Kirkland and City of Marysville for Jail Services

h. Other Items of Business

(1) Resolution R-4894, Relating to Standards for the Provision of Public Defense Services

(2) Resolution R-4895, Authorizing the City Manager to Execute an Access and Utility Easement Over City Property

(3) Library Board Resignation and Appointment

(4) Cultural Council Resignation and Appointment

(5) Procurement Report

9. PUBLIC HEARINGS

a. Initiative Measure 1183
Initiative Measure No. 1183 concerns liquor: beer, wine, and spirits (hard liquor).

This measure would close state liquor stores and sell their assets; license private parties to sell and distribute spirits; set license fees based on sales; regulate licensees; and change regulation of wine distribution.

Should this measure be enacted into law?

[ ] Yes
[ ] No

(1) Resolution R-4896A, Stating the City Council's Opposition to Initiative 1183 on the November 8, 2011, General Election Ballot

or

(2) Resolution R-4896B, Stating the City Council's Support for Initiative 1183 on the November 8, 2011, General Election Ballot

10. UNFINISHED BUSINESS

a. Resolution R-4897, Relating to Adoption of the City Council Goals

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

11. NEW BUSINESS

a. Eastside Winter Shelter Funding Request

b. Naming the Off-Leash Facility at Heronfield Wetlands

12. REPORTS

a. City Council

(1) Regional Issues

b. City Manager

(1) Finn Hill Neighborhood Council Meeting Plan

(2) Calendar Update

ITEMS FROM THE AUDIENCE Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

13. ITEMS FROM THE AUDIENCE

14. ADJOURNMENT

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tracey Dunlap, Director of Finance and Administration

Date: September 22, 2011

Subject: REVIEW OF RESERVE POLICIES AND RECOMMENDATIONS

RECOMMENDATION:
City Council receives a report on the City's reserve policies, recommended revisions and replenishment strategy, and the process for implementing any changes.

BACKGROUND DISCUSSION:

Introduction

In 1998, the City Council approved recommendations establishing policies regarding reserves and fund balance levels that were reflected in the 1999 budget process. In 2003, the City Council revisited the reserve policies, resulting in the reserve structure and replenishment policies that are still in place today (with a few minor modifications). Several factors necessitated a detailed review of the reserve policies in 2011:

- The annexation of the Juanita, Finn Hill, and Kingsgate neighborhoods on June 1, 2011 dramatically changed the size and dynamics of the City's budget. If the current policies were applied, adding the new neighborhoods would increase the required reserve replenishment to meet targets by $3 million (from $6 million to over $9 million). A re-evaluation of the reserve needs will help determine whether this magnitude of increase is really required.
- The economic downturn that began in 2008 resulted in the planned use of over $4 million dollars in reserves to help smooth the transition to lower revenue and service levels. All of these uses were consistent with the City's reserve policies, but now that revenues appear to be stabilizing and the 2011-2012 budget was balanced without the use of reserves, the discussion of the process for replenishing those uses needs to be a priority.
- With over ten years of history since the current reserves were established, it is an opportune time to evaluate how the current policies and targets have met their intended purposes.

One of the action items assigned to the Finance Subcommittee from the 2011-2012 budget process was the evaluation of the reserve target policies in light of annexation. At a series of five meetings, the Subcommittee reviewed the current reserve targets and replenishment policies, historical trends, and staff recommendations. The Subcommittee supports the recommendations summarized in this memorandum for full Council consideration. If approved

by the City Council, these policies will be incorporated into the 2013-2014 budget development process that will begin in 2012.

Importance of Reserves

Maintaining reserves is a best practice in government financial management (and in the private sector as well). The Government Finance Officers Association (GFOA) has published best practice guidelines that are provided as Attachment A. These guidelines provide a broad context for developing specific reserve policies addressing each jurisdiction's unique circumstances.

In the introduction to the City's "Fiscal Policies" section in the budget document, it states that:

> *"The stewardship of public funds is one of the greatest responsibilities given to the officials and managers of the City of Kirkland. Therefore, the establishment and maintenance of wise fiscal policies enables city officials to protect public interests and ensure public trust."*

The "Reserve and Fund Balance Policies" are adopted as part of the fiscal policies in the budget and are prefaced by the following discussion (see Attachment B for the full text of the reserve section):

> *"Adequate fund balance and reserve levels are a necessary component of the City's overall financial management strategy and a key factor in external agencies' measurement of the City's financial strength.*
>
> *Maintenance of fund balance for each accounting fund assures adequate resources for cash flow and to mitigate short-term effects of revenue shortages. City and state regulations have been established to allow the City of Kirkland to create and maintain specific reserve funds. Prudent use of reserve funds enables the City to defray future costs, take advantage of matching funds, and beneficial (but limited) opportunities. Reserve funds provide the City with the ability to exercise flexible financial planning in developing future capital projects. Reserve funds are necessary to enable the City to deal with unforeseen emergencies or changes in condition."*

To summarize the message of these passages as they relate to this discussion, reserves are an integral part of the City's financial planning strategy and provide a tangible external measure of financial strength. Reserves also provide flexibility for dealing with unforeseen events in a planned manner, rather than having to take hasty action when circumstances change. This flexibility is best illustrated by the planned use of $4 million in reserves during the recent economic downturn. In the absence of these funds, expenditures (and service levels) would need to have been cut deeper and sooner. For example, to save that amount in the 2009-2010 budget through reductions in staffing would have meant an additional 20 jobs cut at the beginning of 2009 for the biennium (or as many as 40 positions if the savings were required to be realized in one year).

The results of the City's recent credit rating assessment illustrate the importance of reserves from an external viewpoint. Standard & Poor's uses an analytical methodology that evaluates established and ongoing management practices and policies in the seven areas most likely to affect credit quality, one of which is reserve and liquidity policies (see Attachment C). To

receive a "strong" rating requires that: "A formal operating reserve policy is well defined. Reserve levels are clearly linked to the government's cash flow needs and the historic volatility of revenues and expenditures throughout economic cycles. Management has historically adhered to it." In re-affirming Kirkland's AAA long-term rating with a stable outlook (their highest rating), two of the key factors cited were maintenance of **very strong available reserves** and **strong financial policies and practices** (Attachment D). The City's strong credit rating has resulted in the ability to issue bonds at historically low interest rates.

General Purpose Reserves

The General Purpose Reserves are funded from general revenues and may be used for any general government function within the policies set by the City Council. The General Purpose reserves that are specifically called out in the *Fiscal Policies* are:

- Contingency Reserve Fund (accounted for in Fund 152)
- General Operating Reserve (accounted for in the General Fund)
- Revenue Stabilization Reserve (accounted for in the General Fund)
- General Capital Contingency (accounted for in the Capital Fund 310)

Two other General Purpose reserves accounted for in the General Fund are identified in the *Fund Balance and Reserves* section of the budget (Attachment E):

- Council Special Projects Reserve
- Building and Property Reserve

Note that most of the Finance Subcommittee review focused on the General Purpose Reserves because these are set by City Council policy, several were tapped during the recent economic downturn, and the targets are most impacted by annexation. An overview of other reserves maintained by the City can be found at the end of this memorandum.

Current Policies and Historical Analysis

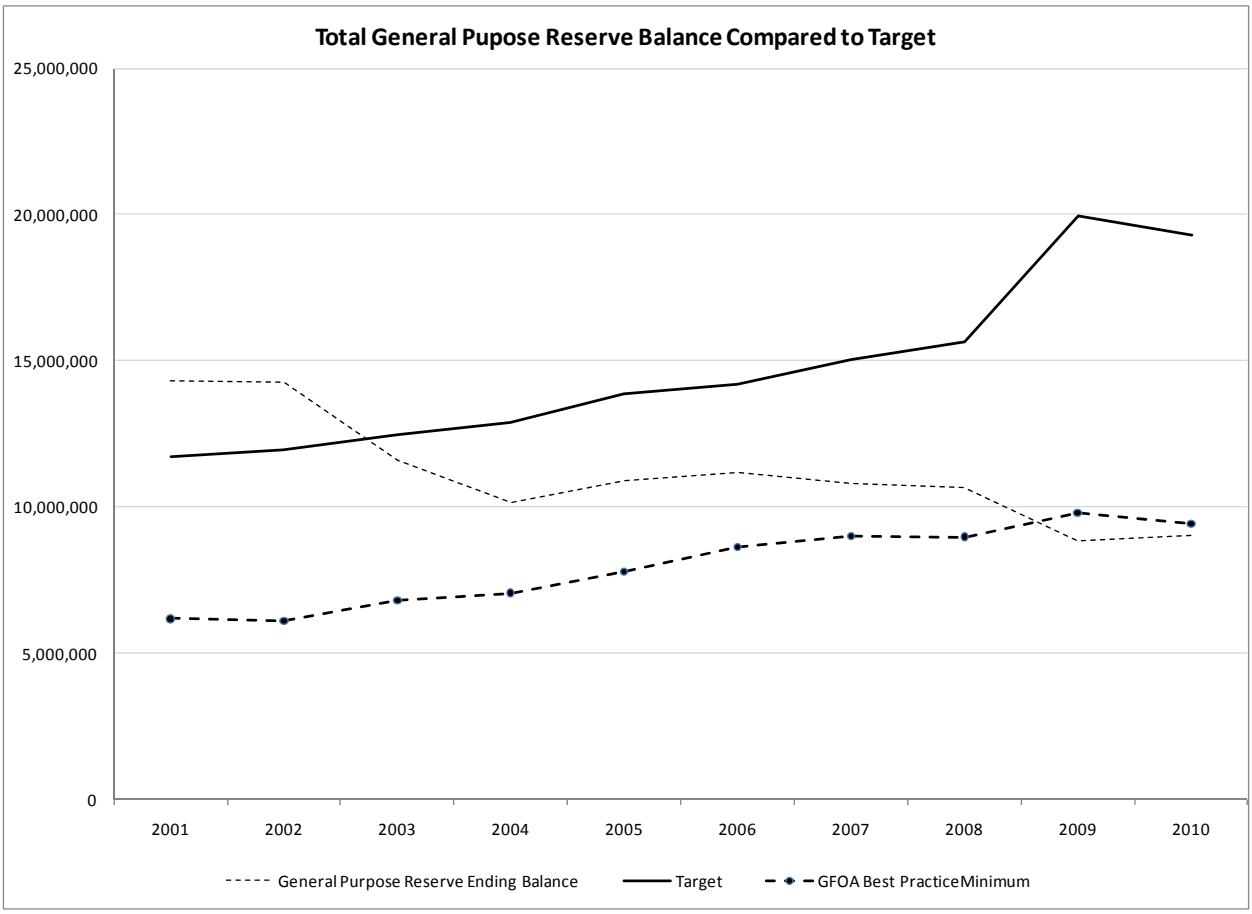
Attachment F summarizes the current policies and estimated balances related to the General Purpose Reserves. Based on the current policies, the budgeted 2012 reserve balances are under target by almost $6 million without annexation and over $9 million when annexation is taken into consideration, as summarized in the table below.

Current Policy				(Under)/Over Target Current	
Item	2011-12 Target (w/o Annexation)	2011-12 Target (with Annexation)	2012 Estimated Ending Balance	w/o Annexation	with Annexation
Contingency	4,016,232	6,081,788	2,246,510	(1,769,722)	(3,835,278)
General Capital Contingency	6,766,320	6,766,320	4,437,370	(2,328,950)	(2,328,950)
General Operating Reserve (Rainy Day)	3,473,324	4,127,496	2,806,513	(666,811)	(1,320,983)
Revenue Stabilization Reserve	1,954,123	2,279,251	731,431	(1,222,692)	(1,547,820)
Council Special Projects	250,000	250,000	251,534	1,534	1,534
Subtotal	16,459,999	19,504,855	10,473,358	(5,986,641)	(9,031,496)
Building and Property Reserve	N/A	N/A	1,972,213	N/A	N/A
Total	16,459,999	19,504,855	12,445,571	(5,986,641)	(9,031,496)

To evaluate whether the reserve targets should be modified, the 10-year history of the reserve balances, uses, and additions was analyzed and the ending balances were evaluated in relation to targets. Attachment G contains the historical analysis, which shows:

- The reserve balances were at or above target levels in the early years after the policies were established (2001-2002) and close to the target level (93%) at the time of the last reserve review in 2003.
- Reserves were maintained between 70-80% of target during the period of economic expansion between 2004 and 2007.
- Balances were used to help cushion the decline during the economic recession and ended 2010 at 47% of target; the 2011-2012 was built assuming that the City will begin replenishing reserves over time.

The graph that follows shows the status of year-end balances versus the target and the GFOA Best Practice recommended minimum of no less than two months of general fund operating revenues or expenditures (refer to Attachment A) for the 10-year period.



The growth in the target over the past few years is due to two primary factors: increases in the 6-year CIP (such as the Public Safety Facility), which is the basis for the current Capital Contingency target, and pre-annexation costs beginning in 2009. During the economic downturn, the ending balances were drawn down so that they are slightly below the recommended GFOA minimum in the last biennium and a replenishment plan to get them back toward the target is discussed below.

Recommendations for Changes to Reserve Targets

Based on the review, the following changes to the reserve policies are recommended:

- The **Contingency Fund** target is currently set at the maximum balance set by RCW ($0.375 per 1,000 AV). It is important to note that the statute establishes a maximum balance, but no minimum target. Over the past ten years, the balance has remained in the range of $1.8 million to $2.5 million, averaging about 73% of target. The average annual use of the reserve during the same period is about $250,000. Staff recommends that **the target be 80% of the statutory maximum** to recognize historical trends.

- The **General Capital Contingency** target has grown as the CIP has grown, however, the uses of the Contingency have averaged about $700,000 per year, with the highest use occurring in 2001 at $1.6 million. The current target is $7.8 million (10% of the 2011-2016 CIP), while the estimated 2012 ending balance is $4.4 million. The balance has ranged from $2.1 million to $4.5 million during the 10 year period. Staff recommends that **the target be based on 10% of the 2-year CIP budget** (currently 2011-2012), which equates to a target of $4.6 million for the existing CIP. This change recognizes that each project budget contains approximately a 10% contingency and that the CIP is looked at annually (on a comprehensive basis every two years with an update in the off years), allowing for adjustments and re-prioritization as needed.

- Staff recommends no changes to current policies regarding the following reserves:
  - Rainy Day Reserve (current target)
  - Revenue Stabilization Reserve (current target)
  - Council Special Projects (current target)
  - Building and Property (no target).

The staff recommendations are summarized in Attachment H. The following table summarizes the revised targets and required replenishment to meet those targets.

Item	Current 2011-12 Target (with Annexation)	Recommended 2011-12 Target (with Annexation)	2012 Estimated Ending Balance	Recommended (Under)/Over Target
Contingency	6,081,788	4,865,430	2,246,510	(2,618,920)
General Capital Contingency	6,766,320	4,631,904	4,437,370	(194,534)
General Operating Reserve (Rainy Day)	4,127,496	4,127,496	2,806,513	(1,320,983)
Revenue Stabilization Reserve	2,279,251	2,279,251	731,431	(1,547,820)
Council Special Projects	250,000	250,000	251,534	1,534
Subtotal	19,504,855	16,154,081	10,473,358	(5,680,723)
Building and Property Reserve	N/A	N/A	1,972,213	N/A
Total	19,504,855	16,154,081	12,445,571	(5,680,723)

Replenishment Strategy

Current Replenishment Needs

Attachment H shows the recommended reserve targets and the projected balance at the end of 2012, identifying that the replenishment to 100% of the revised target is $5,680,723. Note that the estimated year-end 2012 balance that is the basis of the replenishment calculations already takes into account the budgeted replenishment in the 2011-2012 operating budget of $800,000.

One of the proposed performance measures for *Financial Sustainability* is to maintain general purpose reserve balances to be at or above 80% of the reserve balance targets, requiring a replenishment of at least $4,544,578 to achieve. The initial objective should be to aggressively prioritize the replenishments to meet this 80% goal within a targeted period of time, with further replenishment to 100% of target occurring as resources are available.

On-going Policy Considerations

Generally, reserve replenishments occur in two ways during periods of economic recovery:

- Planned - A specific amount is included in the adopted budget, and/or
- Unplanned - Ending fund balances are higher than budgeted, either due to higher than budgeted revenues or under-expenditures.

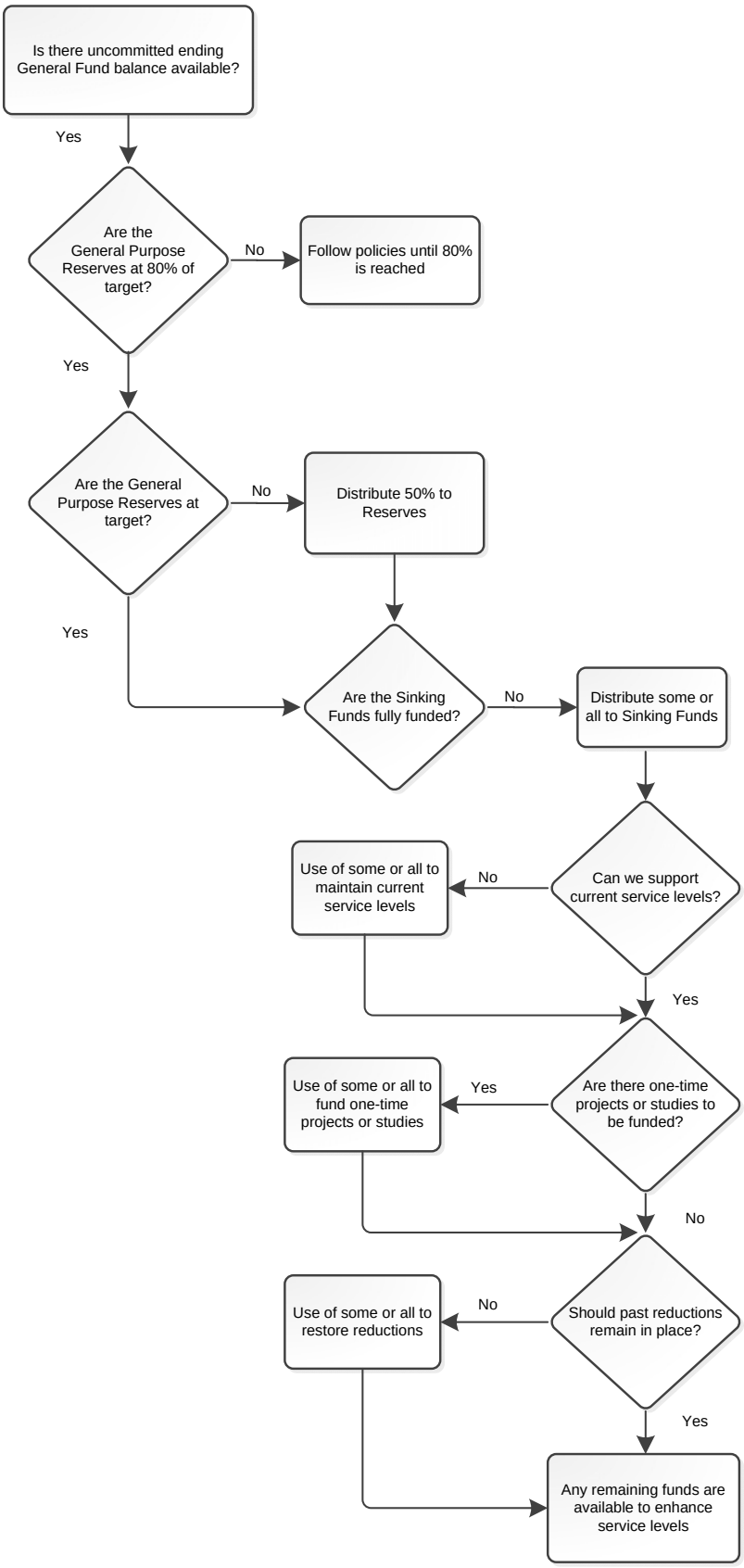
Planned amounts are included as part of the adopted budget. **The recommendation is that planned replenishments toward the 80% target should be set at 1% of the General Fund adopted budget.** Unplanned amounts available at the end of each biennium (if any) could help replenish to target faster. An alternative approach would be to use some or all of those unplanned funds in place of planned (budgeted) amounts in the following biennium to the extent it meets or exceeds the 1% budgeted amount. Staff is proposing that a high percentage (up to all) uncommitted funds available at the end of a biennium should be used for reserve replenishment until reserves meet 80% of target.

By adopting this approach, once reserves reach 80% of target, funds could be freed up to meet other one time or on-going needs. Additional funds could be used to fund a variety of needs, potentially based on the following process:

- Set a specific percentage of available cash toward reserves until they are at target (City Manager recommends 50%), with the remainder available for one or more of the following needs, depending on the nature of the funds available (one-time or on-going) and in this suggested order of priority:
    - Fund liabilities related to sinking funds for public safety and information technology equipment,
    - Maintain current service levels,
    - Fund one-time projects or studies,
    - Increase funding for capital purposes,
    - Restore previous program service reductions,
    - Potential program/service enhancements.

A flowchart of the proposed decision-making process is contained in the exhibit on the following page.

Decision Making Process if Reserves are Greater Than 80% of Target



In terms of priority for replenishing the individual reserves, the following should be considered:

- If the Council Special Projects reserve is below target, replenish to target at the start of each biennium.
- If unplanned funds are available because planned reserve uses did not occur, those funds should be returned to the source reserve.
- To the extent cash is from volatile revenues above budgeted amounts, those funds should be applied to revenue stabilization reserve first.

Other factors may include:

- The source of uncommitted funds should be taken into consideration (for example, interest earnings over budget could be applied to the capital contingency, since they are one of the designated sources for this reserve).
- The degree to which an individual reserve is below target (for example, the reserve that is furthest from its target level on a percentage basis might receive a larger share of the funds).

The approach described above assumes that the decision on how replenishments are allocated to specific reserves will be based on where available funds came from and on each reserve's status at the time the decision is made.

Staff also recommends that the replenishment policy include a mechanism whereby Council could take action to suspend replenishment policies if it was found that special conditions existed warranting such action.

Current Replenishment Recommendations

As part of the mid-biennial budget adjustments, staff is planning to propose that up to $500,000 of the unencumbered funds from year end 2010 ($618,374), be used for reserve replenishment. In addition, the budget contemplates an initial reimbursement of pre-annexation costs from the state sales tax credit of $342,000, which is also recommended as reserve replenishment during the biennium. The total recommended additional replenishment is $842,000.

Given the magnitude of the need and the impact of annexation, staff recommends budgeting the remaining replenishment over time beginning in 2013. If the replenishment need is based on 80% of target (to meet the performance measure objective) and the planned replenishment is set at 1% of the General Fund budget, the annual replenishment amount would be about $750,000 per year starting in 2013. At this rate, reserves would reach 80% of target by 2017. The following table illustrates these figures.

Difference Between Estimated Ending Balance and Target for Reserves with Target

2012 Total Estimated Ending Balance of Reserves with Target	10,473,358
Total General Purpose Reserve Target	16,154,081
Difference Between Estimated Ending Balance and Target (100%)	(5,680,723)
80% of Difference	(4,544,578)

Reserve Replenishment Scenario

	80% of Target
Required Reserve Replenishment @ 80% of Target	4,544,578
Potential Additional Replenishments in 2011-2012	
Uncommitted 2010 Ending Fund Balance	500,000
Pre-Annexation Cost Reimbursement	341,947
Other Unplanned	-
Subtotal Potential Replenishments in 2011-2012	841,947
Future Reserve Replenishment Required	**3,702,631**
Potential Annual Reserve Replenishment Amount at 1% of Target- Starting 2013	750,000
Year Reserve Replenished (with no unplanned additions)	2017

An additional short-term policy recommendation is that any reimbursement of pre-effective date annexation costs that occurs through the annexation state sales tax credit over the replenishment period be used to accelerate the reserve replenishment or to smooth the transition once the 10-year sales tax credit expires.

Other Reserves

Description

In addition to the General Purpose Reserves, there are several reserves that are set aside by Council-directed policy, to meet legal restrictions, or to designate funds for special purposes. These other reserves fall in four broad categories:

- **Special Purpose reserves** reflect both restricted and dedicated revenue for specific purpose, as well as general revenue set aside for specific purposes. These reserves are identified in the *Fund Balance and Reserves* section of the budget document (refer to Attachment E) and, for the most part, do not have target balances because they are accounts that hold funds received for specific purposes. The exception is the Litigation Reserve, which has a target balance of $50,000.

- **Capital Reserves** provide the City the ability to respond to unexpected changes in costs and accumulate funds for future projects. The General Capital Contingency was discussed under General Purpose Reserves because it is funded from general revenues. The other reserves in this category are restricted by statute (Real Estate Excise Taxes [REET], Impact Fees) or for specific purposes (Street Improvement). The REET reserve has a target balance and staff is recommending a modification to that target, as discussed below.

- **Utility reserves** are funded from utility rates and provide the utilities with the ability to respond to unexpected costs and accumulate funds for future replacement projects. The utility reserve policies are set as part of each utility's rate study and adopted with those rates. Utility reserves may only be used for utility purposes.

- **Internal Service funds** are fully funded by charges to operating departments. They provide for the accumulation of funds for replacement of equipment, as well as the ability to respond to unexpected costs. The City has four internal service funds: Information Technology, Facilities Maintenance, Equipment Rental, and Health Benefits. The balances in each fund are based on specific analyses of the funds purpose and needs, as described in Attachment E. These analyses are updated each biennial budget cycle and reviewed periodically to ensure that balances are consistent with the City's expected needs.

Recommendation for Changes

The Real Estate Excise Tax (REET) is accounted for in two accounts within the **Excise Tax Capital Improvement Fund** – one for the first quarter percent (REET 1) and one for the second quarter percent (REET 2), which has been dedicated historically to transportation projects. The fiscal policies anticipate that a portion of these funds will be available to leverage external funding when the opportunity arises (grant match reserve). The reserve would be maintained through excise tax revenue received over and above the annual allocation to the CIP.

In practice, the target has been set at one year of planned use in the CIP (for both REET 1 and 2) plus the budgeted external funding in the 6-year CIP for REET 2 only. For the 2011-2012 biennium, this results in a target of $1 million in REET 1 and $11.5 million in REET 2 due to the level of external funding, for a total of $12.5 million, which is not a realistic target given current trends. In reality, if external funding is not received as planned, the City does not proceed with the project in most cases and the project is revisited during the next CIP update process. The actual use of the REET 2 reserve over the past 6 years (2005-2010) has averaged $2.1 million annually (with individual years varying between $1.9 and 2.3 million). Staff recommends setting the **additional REET 2 set aside at the annual average use based on the 6-year rolling average** to ensure some funds are available for grant match and other unexpected needs, but resulting in a more realistic target and freeing up some of the balance for emerging needs. This recommendation would result in a target of $1 million for REET 1 and $3.1 million for REET 2, for a total target of $4.1 million.

Further recommendations related to the Internal Service funds may emerge from the evaluation of establishing sinking funds for Public Safety and Information Technology equipment replacement (in addition to the existing reserves for vehicles and personal computers). That review will be undertaken by the Finance Subcommittee over the next several months.

Summary of Recommendations

The proposed changes to the current reserve policies are:

- Set the target balance for the **Contingency Fund** at 80% of the statutory maximum.
- Modify the target balance for the **General Capital Contingency** to be based on 10% of the 2-year CIP budget (rather than the 6-year CIP).

- Change the **Excise Tax Capital Improvement** balance target to one year of planned use in the CIP (for both REET 1 and 2) plus a grant match reserve based on the annual use of REET 2 based on a 6-year rolling average.
- Establish reserve replenishment policies during times of economic recovery that include:
    - Planned replenishments toward the 80% target set at 1% of the General Fund adopted budget.
    - Make unplanned amounts available at the end of each biennium to help replenish to target faster or some or all of those funds in place of planned (budgeted) amounts in the following biennium. Staff is proposing that a high percentage (up to all) uncommitted funds available at the end of a biennium should be used for reserve replenishment until reserves meet 80% of target.
    - Once reserves reach 80% of target, funds could be freed up to meet other one-time or on-going needs. City Manager recommends 50% of available cash be put toward reserves until they are at 100% of target, with the remainder available for allocation to a hierarchy of needs.
    - Broad guidance on how replenishments are allocated to specific reserves.
    - A mechanism whereby Council could take action to suspend replenishment policies if it was found that special conditions existed warranting such action.

As part of the mid-biennial budget adjustments, staff will also propose that up to $500,000 of the unencumbered funds from year end 2010 ($618,374), be used for reserve replenishment. In addition, the budget contemplates an initial reimbursement of pre-annexation costs from the state sales tax credit of $342,000, which is also recommended as reserve replenishment.

Next Steps

After the October 4 Study Session, staff will incorporate Council feedback and draft a resolution adopting the revised policies. The intent would be for this resolution to be in place before the 2013-2014 budget process gets underway in 2012, so that it can be incorporated into development of that budget.

BEST PRACTICE

Appropriate Level of Unrestricted Fund Balance in the General Fund (2002 and 2009) (BUDGET and CAAFR)

Background. Accountants employ the term *fund balance* to describe the net assets of governmental funds calculated in accordance with generally accepted accounting principles (GAAP). Budget professionals commonly use this same term to describe the net assets of governmental funds calculated on a government's budgetary basis.[1] In both cases, fund balance is intended to serve as a measure of the financial resources available in a governmental fund.

Accountants distinguish up to five separate categories of fund balance, based on the extent to which the government is bound to honor constraints on the specific purposes for which amounts can be spent: *nonspendable fund balance*, *restricted fund balance*, *committed fund balance*, *assigned fund balance*, and *unassigned fund balance*.[2] The total of the last three categories, which include only resources without a constraint on spending or for which the constraint on spending is imposed by the government itself, is termed *unrestricted fund balance*.

It is essential that governments maintain adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and to ensure stable tax rates. Fund balance levels are a crucial consideration, too, in long-term financial planning.

In most cases, discussions of fund balance will properly focus on a government's general fund. Nonetheless, financial resources available in other funds should also be considered in assessing the adequacy of unrestricted fund balance (i.e., the total of the amounts reported as committed, assigned, and unassigned fund balance) in the general fund.

Credit rating agencies monitor levels of fund balance and unrestricted fund balance in a government's general fund to evaluate a government's continued creditworthiness. Likewise, laws and regulations often govern appropriate levels of fund balance and unrestricted fund balance for state and local governments.

Those interested primarily in a government's creditworthiness or economic condition (e.g., rating agencies) are likely to favor increased levels of fund balance. Opposing pressures often come from unions, taxpayers and citizens' groups, which may view high levels of fund balance as "excessive."

Recommendation. The Government Finance Officers Association (GFOA) recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund.[3] Such a guideline should be set by the appropriate policy body and should provide both a temporal framework and

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[1] For the sake of clarity, this recommended practice uses the terms GAAP fund balance and budgetary fund balance to distinguish these two different uses of the same term.

[2] These categories are set forth in Governmental Accounting Standards Board (GASB) Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*, which must be implemented for financial statements for periods ended June 30, 2011 and later.

[3] Sometimes restricted fund balance includes resources available to finance items that typically would require the use of unrestricted fund balance (e.g., a contingency reserve). In that case, such amounts should be included as part of unrestricted fund balance for purposes of analysis.

specific plans for increasing or decreasing the level of unrestricted fund balance, if it is inconsistent with that policy. [4]

The adequacy of unrestricted fund balance in the general fund should be assessed based upon a government's own specific circumstances. Nevertheless, GFOA recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures.[5] The choice of revenues or expenditures as a basis of comparison may be dictated by what is more predictable in a government's particular circumstances.[6] Furthermore, a government's particular situation often may require a level of unrestricted fund balance in the general fund significantly in excess of this recommended minimum level. In any case, such measures should be applied within the context of long-term forecasting, thereby avoiding the risk of placing too much emphasis upon the level of unrestricted fund balance in the general fund at any one time.

In establishing a policy governing the level of unrestricted fund balance in the general fund, a government should consider a variety of factors, including:

- The predictability of its revenues and the volatility of its expenditures (i.e., higher levels of unrestricted fund balance may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile);
- Its perceived exposure to significant one-time outlays (e.g., disasters, immediate capital needs, state budget cuts);
- The potential drain upon general fund resources from other funds as well as the availability of resources in other funds (i.e., deficits in other funds may require that a higher level of unrestricted fund balance be maintained in the general fund, just as, the availability of resources in other funds may reduce the amount of unrestricted fund balance needed in the general fund);[7]
- Liquidity (i.e., a disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained); and
- Commitments and assignments (i.e., governments may wish to maintain higher levels of unrestricted fund balance to compensate for any portion of unrestricted fund balance already committed or assigned by the government for a specific purpose).

Furthermore, governments may deem it appropriate to exclude from consideration resources that have been committed or assigned to some other purpose and focus on unassigned fund balance rather than on unrestricted fund balance.

Naturally, any policy addressing desirable levels of unrestricted fund balance in the general fund should be in conformity with all applicable legal and regulatory constraints. In this case in particular, it is essential that differences between GAAP fund balance and budgetary fund balance be fully appreciated by all interested parties.

Approved by the GFOA's Executive Board, October, 2009.

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[4] See Recommended Practice 4.1 of the National Advisory Council on State and Local Budgeting governments on the need to "maintain a prudent level of financial resources to protect against reducing service levels or raising taxes and fees because of temporary revenue shortfalls or unpredicted one-time expenditures" (Recommended Practice 4.1).

[5] In practice, a level of unrestricted fund balance significantly lower than the recommended minimum may be appropriate for states and America's largest governments (e.g., cities, counties, and school districts) because they often are in a better position to predict contingencies (for the same reason that an insurance company can more readily predict the number of accidents for a pool of 500,000 drivers than for a pool of fifty), and because their revenues and expenditures often are more diversified and thus potentially less subject to volatility.

[6] In either case, unusual items that would distort trends (e.g., one-time revenues and expenditures) should be excluded, whereas recurring transfers should be included. Once the decision has been made to compare unrestricted fund balance to either revenues or expenditures, that decision should be followed consistently from period to period.

[7] However, except as discussed in footnote 4, not to a level below the recommended minimum.

BEST PRACTICE

Replenishing Fund Balance in the General Fund (2011) (Budget and CAAFR) (new)

Background. It is essential that governments maintain adequate levels of fund balance to mitigate risks and provide a back-up for revenue shortfalls.

The adequacy of unrestricted fund balance[1] in the general fund should be assessed based upon a government's specific circumstances. Nevertheless, the GFOA recommends, at a minimum, that general-purpose governments, regardless of size, incorporate in its financial policies that unrestricted fund balance in their general fund be no less than two months of regular general fund operating revenues or regular general fund operating expenditures.

If fund balance falls below a government's policy level, then it is important to have a solid plan to replenish fund balance levels. Rating agencies consider the government's fund balance policy, history of use of fund balance, and policy and practice of replenishment of fund balance when assigning ratings. Thus, a well developed and transparent strategy to replenish fund balance may reduce the cost of borrowing. However, it can be challenging to build fund balances back up to the recommended levels because of other financial needs and various political considerations.

Recommendation. The Government Finance Officers Association (GFOA) recommends that governments adopt a formal fund balance policy that defines the appropriate level of fund balance target levels. Also, management should consider specifying the purposes for which various portions of the fund balances are intended. For example, one portion of the fund balance may be for working capital, one for budgetary stabilization, and one for responding to extreme events. This additional transparency helps decision makers understand the reason for maintaining the target levels described in the fund balance policy.

Governments should also consider providing broad guidance in their financial policies for how resources will be directed to fund balance replenishment. For example, a policy may define the revenue sources that would typically be looked to for replenishment of fund balance. This might include non-recurring revenues, budget surpluses, and excess resources in other funds (if legally permissible and if there is defensible rationale). Year-end surpluses are an especially appropriate source for replenishing fund balance.

Finally, a government should consider including in its financial policy a statement that establishes the broad strategic intent of replenishing fund balances as soon as economic conditions allow. This emphasizes fund balance replenishment as a financial management priority.

Governments are subject to a number of factors that could require the use of fund balances. It is therefore incumbent on jurisdictions to minimize the use of fund balance, except in very specific circumstances. Replenishment should take place in a prompt fashion with amounts that have been used to ensure that the jurisdiction is properly prepared for contingencies. With the foundation of a financial policy in place, governments should use their long-term financial planning and budget processes to develop a more detailed strategy for using and replenishing fund balance. With these criteria in mind, the government should develop a replenishment strategy and timeline for replenishing fund balances as soon as possible, and that is still appropriate to prevailing budgetary and economic conditions and that considers the following:

[1] Unrestricted fund balance comprises the committed, assigned, and unassigned fund balance categories.

1. The policy should define the time period within which and contingencies for which fund balances will be used. This gives the public a sense for how fund balance is being used as a "bridge" to ensure stable cash flow and provide service continuity.
2. The policy should describe how the government's expenditure levels will be adjusted to match any new economic realities that are behind the use of fund balance as a financing bridge.
3. The policy should describe the time period over which the components of fund balance will be replenished and the means by which they will be replenished. Frequently, a key part of the replenishment plan will be to control operating expenditures and use budget surpluses to replenish fund balance. The replenishment plan might also specify any particular revenue source that will aid in the replenishment of fund balances. For example, if the government has a volatile sales tax yield, it might specify that yields that are significantly above average would be used to replenish fund balances.

Generally, governments should seek to replenish their fund balances within one to three years of use. However, when developing the specifics of the replenishment plan, governments should consider a number of factors that influence the rate and time period over which fund balances will be replenished. Factors influencing the replenishment time horizon include:

1. *The budgetary reasons behind the fund balance targets.* The government should consider special conditions that may have caused it to set its fund balance target levels higher than the GFOA-recommended minimum level. For example, if targets are higher because the community has very volatile cash flows, then the government would want to build the fund balances back up more quickly compared to governments with more stable cash flows.
2. *Recovering from an extreme event.* An extreme event, such as a natural disaster, that has required the government to use a portion of its fund balance, may make it infeasible to replenish the fund balance as quickly as normal, depending upon the severity of the event.
3. *Political continuity.* Replenishing fund balance takes political will, and that will is often strengthened by the memory of the financial challenge that caused the use of fund balances in the first place. If the governing board and/or management are already committed to a particular financial policy, the replenishment strategy should be as consistent as possible with that policy in order to maximize political support.
4. *Financial planning time horizons.* Fund balances should typically be replenished within the time horizon covered by the organization's long-term financial plan. This puts the entire replenishment plan in context and shows the public and decision makers the expected positive outcome of the replenishment strategy.
5. *Long-term forecasts and economic conditions.* Expectations for poor economic conditions may delay the point at which fund balances can be replenished. However, in its replenishment plan the government should be sure to set a benchmark (e.g., after fund balances have dropped to a certain point below desired target levels) for when use of fund balance is no longer acceptable as a source of funds.
6. *Milestones for gradual replenishment.* A replenishment plan will likely be more successful if it establishes replenishment milestones at various time intervals. This is especially important if replenishment is expected to take place over multiple years (e.g., if you are starting from 75% of your target, set a goal to reach 80 percent of target in one year, 90 percent in two years, and 100 percent in three years).
7. *External financing expectations.* A replenishment plan that is not consistent with credit rating agency expectations may increase the government's cost of borrowing. It is important that the logic used by the government to develop the replenishment plan be communicated in an effective fashion to external lenders.

References.

- GFOA Best Practice Appropriate Level of Unrestricted Fund Balance in the General Fund, 2009.
- For a fuller explanation of the concept of "bridging" in financial distress, please visit GFOA's financial recovery website at www.gfoa.org/financialrecovery.

Approved by the GFOA's Executive Board, February, 2011.

CITY OF KIRKLAND

FISCAL POLICIES

BACKGROUND AND PURPOSE

The stewardship of public funds is one of the greatest responsibilities given to the officials and managers of the City of Kirkland. Therefore, the establishment and maintenance of wise fiscal policies enables city officials to protect public interests and ensure public trust.

This document incorporates past financial practices in defining the current policies to be used by the City to meet its obligations and operate in a financially prudent manner. These policies have been established to provide general fiscal guidelines and are intended to provide sound direction in the management of the City's financial affairs.

[Excerpt below applies to this discussion - the full text can be found in the budget document starting on page 21.]

RESERVE AND FUND BALANCE POLICIES

Adequate fund balance and reserve levels are a necessary component of the City's overall financial management strategy and a key factor in external agencies' measurement of the City's financial strength.

Maintenance of fund balance for each accounting fund assures adequate resources for cash flow and to mitigate short-term effects of revenue shortages.

City and state regulations have been established to allow the City of Kirkland to create and maintain specific reserve funds. Prudent use of reserve funds enables the City to defray future costs, take advantage of matching funds, and beneficial (but limited) opportunities. Reserve funds provide the City with the ability to exercise flexible financial planning in developing future capital projects. Reserve funds are necessary to enable the City to deal with unforeseen emergencies or changes in condition.

- The City will establish minimum fund balance targets for each fund based on the cash flow requirements of the fund. The City will include all fund balances in the biennial budget.
- The minimum fund balance will be attained and maintained through expenditure management, revenue management and/or contributions from the General Fund.
- All expenditures drawn from reserve accounts shall require prior Council approval unless previously authorized by the City Council for expenditure in the biennial budget.
- A Contingency Reserve Fund shall be maintained in accordance with RCW 35A.33.145 to meet any municipal expense, the necessity or extent of which could not have been reasonably foreseen at the time of adopting the biennial budget. The target balance will be consistent with state law at $0.375 per $1,000 of assessed valuation. Annual contributions to the Contingency Fund will be budgeted from interest income and General Fund resources.
- The City will maintain a General Operating Reserve at an amount equivalent to five percent of the tax-supported general government budgets (General Fund, Street Operating Fund and Parks Maintenance Fund) for the second year of the biennium. The General Operating Reserve is available to address unforeseen revenue shortfalls or expenditure needs that occur during the current biennium. Annual contributions will be budgeted from General Fund resources as available to attain and maintain an established reserve level.
- The City will maintain a Revenue Stabilization Reserve to address temporary revenue losses due to economic cycles or other time-limited causes. The Revenue Stabilization Reserve will be maintained at ten percent of selected General Fund revenue sources which, in the judgment of

the Director of Finance and Administration, are subject to volatility. The Revenue Stabilization Reserve may be used in its entirety; however, replenishing the reserve will constitute the first priority for use of year-end General Fund resources in excess of those needed to maintain the fund balance at the target level.

- The City will maintain a General Capital Contingency to address unforeseen project expenditures or external revenue shortfalls in an amount equivalent to ten percent of the funded six-year CIP, less proprietary fund projects. Contributions will be made from General Fund resources as they are available.
- The City Manager may authorize the use of capital funding reserves up to an aggregate total of $100,000 per year in increments not to exceed $25,000. The City Manager will provide regular reports to the City Council at a regular Council meeting if this authorization is used. Capital funding reserves include: General Capital Contingency, Street Improvement Reserve, REET Reserves, Impact Fee Reserves, Water/Sewer Capital Contingency, Water/Sewer Construction Reserve, Surface Water Capital Contingency, and Surface Water Construction Reserve.
- The City will maintain a Capital Improvement Project Grant Match Reserve as a means of assuring the availability of cash resources to leverage external funding when the opportunity arises. The reserve will be maintained in the Real Estate Excise Tax Capital Reserve Fund and maintained through excise tax revenue received over and above the annual allocation to the Capital Improvement Plan.
- The City will maintain fully funded reserves for the replacement of vehicles and personal computers. Contributions will be made through assessments to the using funds and maintained on a per asset basis.
- Additional reserve accounts may be created by Council to account for monies for future known expenditures, special projects, or other specific purposes.
- All reserves will be presented in the biennial budget.

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June 27, 2006

Criteria | Governments | U.S. Public Finance:
Financial Management Assessment

Primary Credit Analyst:
James Wiemken, London +44-20-7176-7073; james_wiemken@standardandpoors.com

Secondary Credit Analysts:
Colleen Woodell, New York (1) 212-438-2118; colleen_woodell@standardandpoors.com
Richard J Marino, New York (1) 212-438-2058; richard_marino@standardandpoors.com

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Criteria | Governments | U.S. Public Finance:

Financial Management Assessment

*(**Editor's Note:** This criteria article originally was published on June 27, 2006. We're republishing it following our periodic review completed on Dec. 15, 2010.)*

The rigor of a government's financial management practices is an important factor in Standard & Poor's Ratings Services analysis of that government's creditworthiness. Managerial decisions, policies, and practices apply directly to the government's financial position and operations, debt burden, and other key credit factors. A government's ability to implement timely and sound financial and operational decisions in response to economic and fiscal demands is a primary determinant of near-term changes in credit quality. Standard & Poor's will now offer a more transparent assessment of a government's financial practices as an integral part of our general obligation and appropriation credit rating process.

Assessing Financial Practices

Major elements of governmental financial management include economic analysis, revenue forecasting, risk management, accounting practices, financial strategies, cash and liquidity administration, and debt management. All of these elements have an impact on a government's bottom line, and, as a result, on its credit quality. If a government is unable or unwilling to employ its authority in a timely manner to address events that impact its budget and financial condition, its credit rating can be adversely affected.

Many finance directors and other local government officials take pride in the managerial policies, practices, and structures they have established to ensure efficiency and quality of service, and to promote innovation and security. While credit ratings incorporate financial management as one of many factors, the impact of financial management on the rating may not be readily apparent because other factors may counterbalance, or even outweigh it. Examples of such factors include local economic conditions, debt levels, and statutory limitations. By focusing special attention on the assessment of financial practices, Standard & Poor's will more fully recognize governments' efforts in this important area. In fact, the vast majority of downgrades in recent years can be attributed to financial practices, or lack thereof. (For further information on this trend, see the report, "GO Credit Ratings Are At A Crossroad As Downgrades Increase," RatingsDirect, June 12, 2006).

Analytical Framework

Standard & Poor's has established an analytical methodology that evaluates established and ongoing management practices and policies in the seven areas most likely to affect credit quality. These areas are:

- Revenue and expenditure assumptions
- Budget amendments and updates
- Long term financial planning
- Long term capital planning
- Investment management policies
- Debt management policies

- Reserve and liquidity policies

The evaluation of each area focuses on best practices and policies that are credit-important in most governments rather than policies that address issues that are fairly unusual or unique to the government. The nature of the policies and practices considered are those that governments may use in some manner regardless of the size or type of government. Issuers that rank well in the evaluation should be those whose policies help reduce the likelihood of credit deterioration, or enable them to benefit more from changing conditions, whether they are economic, budgetary, statutory, or personnel related.

Users of the FMA, however, should also realize its limitations. By focusing on a government's policies and practices, the FMA is not an evaluation of the competency or aptitude of individual finance professionals; nor is it an evaluation of a finance department's ability to handle unique challenges. Moreover, the nature of the entity's governing body, the effectiveness of its governance practices, and issues of public policy pursued by the government are beyond the scope of this analysis.

Although Standard & Poor's considers in its analysis any material information that provides relevant context or influences financial management, it is important to note that this assessment of financial practices is based primarily on the existence and implementation of management practices, and not necessarily the results achieved by such practices. Results—both positive and negative—are assumed to manifest themselves in other visible ways. The purpose of the focus on policies and practices is to evaluate the potential for credit quality to move away from those currently indicated by results.

The following tables detail each of the seven financial practice areas examined by Standard & Poor's.

Table 1

Revenue And Expenditure Assumptions	
Are the organization's financial assumptions and projections realistic and well grounded from both long-term and recent trend perspectives?	
Strong	Formal historic trend analysis is performed and updated annually for both revenue and spending; regular effort is made to determine whether revenues or expenditures will deviate from their long-term trends over the next couple of years; evidence of independent revenue forecasting exists(when possible).
Standard	Optimistic assumptions exist that, while supportable, add risk; assumptions are based on recent performance, but little evidence of questioning or validating assumptions exists.
Vulnerable	Assumptions neglect likely shortfalls, expenditure pressures or other pending issues; assumptions exist which enjoy no prudent validation.

Table 2

Budget Amendments And Updates	
Are there procedures for reviewing and amending the budget based on updated information and actual performance to ensure fiscal targets are met?	
Strong	At least quarterly budget surveillance is maintained to identify problem areas and enable timely budget adjustments; management exhibits ability and willingness to address necessary intra-year revenue and expenditure changes to meet fiscal targets.
Standard	Semiannual budget reviews exist; management identifies variances between budget and actual performance.
Vulnerable	No formal process exists for regular review and timely updating of budget during the year.

Table 3

Long-Term Financial Planning	
Does management have a long-term financial plan that allows them to identify future revenues and expenditures as well as address upcoming issues that might affect these?	
Strong	A multi-year financial plan exists where future issues are identified and possible solutions are identified, if not implemented; revenue and expenditure decisions are made primarily from a long-term perspective. Structural balance is a clear goal.
Standard	Multi-year projections are done informally; multi-year projections are done, but without discussion of pending issues, so that issues are not addressed; some one-shot actions exist, but the long-term consequences of these actions are acknowledged and communicated.
Vulnerable	No long-term financial planning exists; operational planning is done on a year-to-year (or budget-to-budget) basis; one-shot budget fixes are used with little attention to long-term consequences.

Table 4

Long-Term Capital Planning	
Has the organization created a long-term capital improvement program?	
Strong	A five-year rolling CIP with funding identified for all years exists and is linked to the operating budget and long-term revenue and financing strategies.
Standard	A five-year CIP is done, but is generally limited to projects to be funded from the current budget plus a four-year wish list; some funding for out-year projects is identified, but not all.
Vulnerable	No five-year CIP exists; capital planning is done as needs arise.

Table 5

Investment Management Policies	
Has the organization established policies pertaining to investments, such as the selection of financial institutions for services and transactions; risk assessment; investment objectives; investment maturities and volatility; portfolio diversification; safekeeping and custody; and investment performance reporting, benchmarking, and disclosure?	
Strong	Investment policies exist and are well defined; strong reporting and monitoring mechanisms exist and are functioning.
Standard	Informal or non-published policies exist; policies are widely communicated and followed.
Vulnerable	Absence of informal or non-published policies

Table 6

Debt Management Policies	
Has the organization established policies pertaining to the issuance of debt, such as projects that may or may not be funded with debt (including economic development projects); maturity and debt service structure; use of security and pledges, credit enhancement, and derivatives; and debt refunding guidelines?	
Strong	Debt policies exist and are well defined; strong reporting and monitoring mechanisms exist and are functioning. If swaps are allowed, a formal swap management plan that follows S&P's guidelines (see the DDP) has been adopted.
Standard	Basic policies exist; policies are widely communicated and followed. If swaps are allowed there is a swap management plan in place, but it does not follow S&P's guidelines.
Vulnerable	Absence of basic policies or clear evidence that basic policies are followed. Swaps are allowed but there is no swap management plan in place, and/or there is no local (non-FA) knowledge about the swap.

Table 7

Reserve And Liquidity Policies	
Has the organization established a formalized operating reserve policy, which takes into account the government's cash flow/operating requirements and the historic volatility of revenues and expenditures through economic cycles?	
Strong	A formal operating reserve policy is well defined. Reserve levels are clearly linked to the government's cash flow needs and the historic volatility of revenues and expenditures throughout economic cycles. Management has historically adhered to it.
Standard	A less defined policy exists, which has no actual basis but has been historically adhered to it.
Vulnerable	Absence of basic policies or, if they exist, are not followed.

Assessment Methodology

Standard & Poor's evaluates and assigns each of the seven areas a qualitative ranking, based on the above framework. In determining the overall assessment, the revenue and expenditure assumptions, budget amendments and updates are given a relatively higher importance; long-term financial planning and liquidity policies are given an average importance; and capital planning, debt policies, and investment policies receive relatively less weight. The difference in degrees of importance is limited, however, so that each factor's contribution to the assessment is meaningful.

Overall assessments are communicated using the following terminology: The term "good", in addition to the terms "strong", "standard", and "vulnerable", is used to further differentiate governments with a mix of strong and standard practices.

"Strong"

A Financial Management Assessment of 'strong' indicates that practices are strong, well embedded, and likely sustainable. The government maintains most best practices deemed critical to supporting credit quality and these are well embedded in the government's daily operations and practices. Formal policies support many of these activities, adding to the likelihood that these practices will be continued into the future and transcend changes in the operating environment or personnel.

"Good"

A Financial Management Assessment of 'good' indicates that practices are deemed currently good, but not comprehensive. The government maintains many best practices deemed as critical to supporting credit quality, particularly within the finance department. These practices, however, may not be institutionalized or formalized in policy, may lack detail or long-term elements, or may have little recognition by decision makers outside of the finance department.

"Standard"

A Financial Management Assessment of 'standard' indicates that the finance department maintains adequate policies in most, but not all key areas. These policies often lack formal detail and institutionalization, and may not include best practices.

"Vulnerable"

A Financial Management Assessment of 'vulnerable' indicates that the government lacks policies in many of the areas deemed most critical to supporting credit quality. The 'vulnerable' designation suggests a high degree of uncertainty regarding a government's ability to effectively adapt to changing conditions that could threaten its

long-term financial position.

Analytical Process And Supporting Documentation

To perform its analysis of local government financial practices, Standard & Poor's will rely on documentation provided by the government and discussions with the organization's management. Relevant documents include, but are not limited to, audited financial statements and accompanying notes, budget documents, financial plans, management policy statements, procedure manuals, and periodic reports. Discussions provide an important opportunity for management to elaborate on the factors listed above, as well as answer specific questions, so as to enable Standard & Poor's analysts to assess the factors as thoroughly as possible.

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August 15, 2011

Summary:

Kirkland, Washington; General Obligation

Primary Credit Analyst:
Chris Morgan, San Francisco (1) 415-371-5032; chris_morgan@standardandpoors.com

Secondary Contact:
Jennifer Hansen, San Francisco 415-371-5035; jen_hansen@standardandpoors.com

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Kirkland, Washington; General Obligation

Credit Profile		
US$4.14 mil GO Bnds ser 2011 due 12/01/2021		
Long Term Rating	AAA/Stable	New
Kirkland Ultd Tax		
Long Term Rating	AAA/Stable	Affirmed

Rationale

Standard & Poor's Ratings Services assigned its 'AAA' long-term rating to Kirkland, Wash.'s series 2011 limited-tax general obligation (GO) refunding bonds. In addition, Standard & Poor's affirmed its 'AAA' long-term rating and underlying rating (SPUR) on the city's previously issued GO debt. The outlook on all ratings is stable.

The ratings reflect our view of the city's:

- Economic base in the Seattle region that shows strong-to-extremely-strong wealth and income indicators,
- Maintenance of very strong available reserves,
- Strong financial policies and practices, and
- Low debt burden relative to market value.

The bonds are secured by the city's full faith and credit, including the obligation to levy property taxes subject to a statutory tax limit of $3.10 per $1,000 of assessed value (AV) for operations and non-voted debt. The levy rate is currently $1.30. Property tax revenue growth is additionally limited to 1% per year plus new construction without a voted override.

We understand that the city will use bond proceeds to refund its series 1999 limited-tax GO bonds and a portion of its series 2001 limited-tax GO refunding bonds.

The city serves an established suburban area 12 miles northeast of Seattle, along the jobs-rich Interstate 405 corridor and near the main Microsoft campus. Its income and wealth indicators are very-strong-to-extremely strong in our view, with a median household effective buying income of 151% of the U.S. level and a per capita market value of $225,093. The city's preliminary June 2011 unemployment rate of 8.2% was below the region's 9.3% rate and nation's 9.2% rate, but the number of employed residents in the city remains below the December 2007 peak.

On July 1, 2011, the city annexed three largely residential unincorporated neighborhoods on its northern border that it will fully phase-in for 2012 for property tax purposes. This new area increased the city's population to 80,505 from 49,020 and its AV by 42% based on 2011 figures. During its current biennium, the city will receive a portion of county-allocated taxes attributable to the second half of 2011 and a state sales tax credit during a 10-year transition period budgeted at an annualized 4% of general fund expenditures. The city does not have material taxpayer concentration, in our view, and we do not expect any significant change as a result of the annexation.

Similar to many other cities in the region, the city's total AV has declined concurrently with housing market stress after a period of substantial growth. Since its 2009 peak, AV declined by what we consider a significant 9.6%

average annual rate to $10.8 billion for 2011. Including the annexation area, the city's total AV stands at $15.3 billion for 2011. We understand that the city is levying property taxes for operations at the maximum level permitted under state law, which, without a public vote, generally limits local governments to property tax revenue growth of 1% per year, excepting new construction. However, at $1.30 per $1,000 of AV, the city's levy rate stands at 42% of the statutory levy rate cap, and we believe that if the city allows its levy rate to rise, it could experience substantial further AV declines without realizing a loss in property tax revenues. Voters last approved a "levy lid lift" (a property tax limit override) in 2002 for parks maintenance and operations.

This property tax structure notwithstanding, the city's general fund has shown the effects of the current economic trough, but has a financial position that we consider very strong. We calculate the city's available balances, consisting of the general fund and five reserves outside of the general fund, at $16.5 million, or 29% of general fund expenditures, at the end of 2010, down from 43% in 2007. We understand that the city responded to its budgetary challenges by reducing expenditures and increasing its utility taxes in 2008, fully drawing on its reserve for economically driven revenue declines in 2009, and negotiating compensation reductions with its bargaining units in 2010. A positive revenue sign has been sales tax performance, which increased 4.5% governmentwide in 2010.

We calculate based on the city's budget and discussions with management that the city's available balances will contract further through the city's biennial period ending 2012 to a still very strong 23% of annual expenditures. This reflects a reserve position that is stronger in absolute terms but weaker in relative percentage terms as spending increases to serve the annexed area. We understand that the city reduced comparable positions by 16 in 2011 for its pre-annexation service area, but that the annexation allowed it to retain 13 of these jobs. Management reports that general fund sales taxes increased by 4.6% for the first quarter of 2011 for the pre-annexation area of the city and believes that a state sales tax amnesty program this year may net additional one-time and ongoing revenues.

We consider the city's management practices to be "strong" under our Financial Management Assessment (FMA) methodology. An FMA of "strong" indicates our view that practices are strong, well embedded, and likely sustainable.

Combined direct and overlapping debt levels after this issuance represent 2.6% of market value, which we consider low, and $5,905 per capita, which we consider high, but the city's wealth and income profile mitigates our concern regarding the latter ratio. We believe that the market value ratio could rise and population ratio drop in 2012, when the annexation area is included in the city's ratios, due to the annexation area's primarily residential land use pattern. Management reports that the city's $35.3 million series 2010 GO bonds represent the city's planned GO borrowing through 2016, but that the city is considering a smaller GO issuance in the next two years after it incorporates the annexation area into its operations and identifies new capital needs, if any.

The city makes its full contributions to the state-managed Public Employees Retirement System pension plans in which its employees participate. Management calculates its other postemployment benefits (OPEB) actuarially accrued liability, which is attributable to a benefits plan closed to new employees, at $10.1 million at the end of 2010. The city's most recent annual pay-as-you-go OPEB payment was $493,000 compared with a $948,200 actuarially calculated annually required contribution rate to retire the liability.

Outlook

The stable outlook reflects our view that the city's strong financial management policies and practices have positioned it well to handle the transition and ongoing costs associated with its service area expansion. Notwithstanding recent positive sales tax performance and the projections of net growth in available reserves in absolute terms following the annexation, we view the changes to the city's operations as a management challenge that is compounded by the revenue effects of a weak economic recovery. Accordingly, although our outlook incorporates the possibility that the city's reserves could stagnate in 2011 and 2012 due to transition costs associated with the annexation, we could lower the rating if we believe that the city is having difficulty restoring its operations to balance and its available reserves erode significantly.

Related Criteria And Research

- USPF Criteria: GO Debt, Oct. 12, 2006
- USPF Criteria: Key General Obligation Ratio Credit Ranges – Analysis Vs. Reality, April 2, 2008
- State And Local Government Ratings Are Not Directly Constrained By That Of The U.S. Sovereign, Aug. 8, 2011

Ratings Detail (As Of August 15, 2011)		
Kirkland ltd tax GO bnds		
Long Term Rating	AAA/Stable	Affirmed
Kirkland unltd tax GO bnds ser 2003 dtd 01/15/2003 due 12/01/2003-2016 2018 2020 2022		
Unenhanced Rating	AAA(SPUR)/Stable	Affirmed
Kirkland unltd tax GO rfdg bnds ser 2001 dtd 07/01/2001 due 12/01/2001-2012		
Unenhanced Rating	AAA(SPUR)/Stable	Affirmed

Many issues are enhanced by bond insurance.

Complete ratings information is available to subscribers of RatingsDirect on the Global Credit Portal at www.globalcreditportal.com. All ratings affected by this rating action can be found on Standard & Poor's public Web site at www.standardandpoors.com. Use the Ratings search box located in the left column.

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CITY OF KIRKLAND

FUND BALANCE AND RESERVES

Reserves and fund balance are two important indicators of the City's fiscal health. Reserves represent "savings accounts" that are held to meet unforeseen budgetary needs ("general purpose reserves"). Some specialized reserves are dedicated by purpose and are held until an appropriate expenditure is needed ("special purpose reserves"). Fund balance includes both reserves and working capital. Working capital is needed within each fund to meet its cash flow needs.

The charts following this narrative summarize the changes in fund balance across all funds and the estimated balance in each reserve at the end of 2010. An analysis of the changes in fund balance is included with each section of the budget (i.e. General Government Operating, Water/Sewer Utility, etc.) in addition to the summary provided here. The analysis shows the 2012 delineation between reserved fund balance and working capital. The following narrative highlights the major reserve policy components as they are incorporated in the 2011-2012 Budget.

FUND BALANCE

Each fund begins the year with a beginning fund balance which may be comprised of: capital reserves, operating reserves, and unreserved working capital. As the year progresses the expenditures made from the fund and revenues received will change the fund balance. A minimum amount of fund balance should be maintained in each operating fund to meet cash flow needs and, if needed, as a means of meeting commitments when a revenue shortfall occurs. A reduction in fund balance during the biennium (unless it is planned) can be seen as a sign of fiscal stress – revenues are not adequate to meet expenses. Fund balance in excess of the amount needed for minimum cash flow purposes can be used to fund one-time expenses or to replenish or enhance reserves. Budgeted fund balances recognize all cash resources estimated to be available as of the end of the biennium.

GENERAL PURPOSE RESERVES

General purpose reserves are available to meet a wide variety of contingencies. They are funded by excess general purpose revenues, which have no restrictions on the public purpose for which they are spent. The utility funds have a companion set of reserves distinct from those in the General Government category.

General Operating Reserve

For the City's "Rainy Day" fund, the target is established by fiscal policy at five percent of the operating budget (excluding utility and internal service funds). Each biennium, the target amount will change proportional to the change in the operating budget. To maintain full funding, the increment between five percent of the second year of the prior biennium budget and the second year of the current biennium budget would be added or subtracted utilizing interest income and year-end fund balance in the General Fund. It is a reserve to be used for unforeseen revenue losses and other temporary events. If the reserve is utilized by the City Council, the authorization should be accompanied by a plan for replenishing the reserve within a two to three year period.

Revenue Stabilization Reserve

The Revenue Stabilization Reserve was approved by Council in 2003 and was created by segregating a portion of the General Operating Reserve. The purpose of this reserve is to provide an easy mechanism to tap reserves to address temporary revenue shortfalls resulting from temporary circumstances (e.g. economic cycles, weather-related fluctuations in revenue). Council set the target at ten percent of selected General Fund revenue sources which are subject to volatility (e.g. sales tax and utility taxes). The Revenue Stabilization Reserve may be used in its entirety; however, replenishing the reserve will constitute the first priority for use of year-end fund balance in the General Fund.

Contingency Fund

The Contingency Fund was established pursuant to RCW 35A.33.145 to "provide monies with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual {biennial} budget." State law sets the maximum balance in the fund at $0.375 per $1,000 of assessed valuation. This reserve would be used to address unforeseen expenditures (as opposed to revenue shortfalls addressed by the Revenue Stabilization Reserve). The fund can be replenished through interest earnings up to the maximum balance or through the year-end transfer if needed.

General Capital Contingency

This reserve is available to fund general capital projects when the scope or cost of the project exceeds the budgeted amount. The target established by fiscal policy is ten percent of the funded six-year Capital Improvement Program (CIP) less utility projects. Funding is received from the General Fund year-end transfer and interest income. Use of the General Capital Contingency is secured through a request to Council. Typically, this reserve has covered changes in project scope or unanticipated costs that arose out of the bid process or unavoidable change orders. Council granted limited administrative authority to the City Manager to fund small project overruns (e.g. up to $100,000 per year each for the general and utility capital reserves with up to $25,000 for any single project).

Building and Property Reserve

This reserve is used for property purchases, building improvements and other property-related transactions. It has also been used as a general purpose reserve to fund Council-approved unanticipated expenditures.

Council Special Project Reserve

This reserve is available to the City Council to fund special one-time projects that were unforeseen at the time the budget was prepared. When the reserve is used, it is replenished from the General Fund year-end fund balance.

SPECIAL PURPOSE RESERVES

Special purpose reserves are dedicated either by Council policy or by state or local laws that govern their use. Following are descriptions of a few of the larger and more important special purpose reserves.

Excise Tax Capital Improvement Reserve

There are two reserves in the Real Estate Excise Tax Capital Improvement Fund – one for the first quarter percent real estate excise tax (REET 1) and one for the second quarter percent real estate excise tax (REET 2). These cash balances must be kept separate due to the dedication of REET 2 to transportation capital projects. The REET 1 reserve is used primarily as a general CIP grant match reserve and/or for significant project scope changes. The target should be reviewed periodically against potential grants.

Equipment Rental Fund

The Equipment Rental Fund is one of four internal service funds. There are two capital reserves maintained in this fund. One relates to the replacement of vehicles and the other is for the replacement of 800 MHz radios. Vehicle replacement rates, based on the estimated useful life, the replacement cost of each vehicle, and the related cash flow requirements are assessed monthly to each user department. The radio replacement reserve was funded previously via the year-end transfer from the General Fund; however, future funding is still to be determined, but may come from radio replacement rates which will be assessed in the year after a radio is replaced.

Information Technology Fund

The Information Technology Fund is the second internal service fund. There are two reserves within this fund. The Personal Computer (PC) replacement reserve in this fund is for the replacement of personal computers. PC replacement rates, based on the estimated useful life and replacement cost of each type of PC, are assessed monthly to each user department. The Technology Major Systems Replacement Reserve was initiated by Council in 2003 by reallocating a portion of the General Capital

Contingency. The reserve will be used to fund projected major system replacements that cannot be covered through the current CIP funding allocations. An initial amount of $1 million was reallocated from the General Capital Contingency to start the reserve which may be funded in future years by replacement charges to department users.

Facilities Maintenance Fund

The third internal service fund is the Facilities Maintenance Fund which accounts for the costs of maintaining and repairing City buildings. Revenue to the fund is derived primarily from user charges to other funds. Two types of reserves are budgeted in this fund – an operating reserve and a sinking fund reserve. The operating reserve is set at $550,000 and is used to pay for major, unanticipated repairs. It is replenished, if necessary, from the General Fund year-end transfer.

The sinking fund reserve is used to pay for each City facility's twenty-year life cycle costs related to the repair or replacement of major architectural, mechanical, and electrical components. A facilities sinking fund charge is assessed to each operating fund and is in addition to the annual facilities rental charge, which covers the basic annual maintenance costs for each facility. The reserve is the source of funding for planned repair and replacement projects.

Health Benefits Fund

The Health Benefit Fund was established in the 2011-12 biennium to account for programs providing employee medical health coverage under the City's new medical self-insurance program. Medical premiums received by the fund are used to play claims for employees participating in the self-insured health care program, as well as "stop loss" coverage insurance and administrative and other program costs. A portion of the premiums will be set aside in a reserve to maintain the viability of the fund based on actuarial estimates.

CITY OF KIRKLAND
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CITY OF KIRKLAND
CHANGE IN FUND BALANCE (Beginning 2009 to Ending 2012)
SUMMARY OF ALL FUNDS

	General Government		Utility			
	Operating Funds	Non-Operating Funds	Water/ Sewer Utility	Surface Water Utility	Solid Waste Utility	All Funds
2009 Actual Beginning Fund Balance	**22,258,092**	**56,111,187**	**15,716,068**	**9,761,132**	**1,338,548**	**105,185,027**
Reserved	*9,968,025*	*32,157,537*	*10,881,270*	*4,773,445*	-	*57,780,277*
Unreserved Working Capital	*12,189,194*	*11,355,557*	*4,834,798*	*4,987,687*	1,338,548	*34,705,784*
Plus: 2009-10 Estimated Revenues	148,333,625	45,497,645	48,452,303	14,590,028	17,109,170	**273,982,771**
Less: 2009-10 Estimated Expenditures	149,564,569	61,357,713	51,588,868	15,837,257	16,496,130	**294,844,537**
Fund Structure Changes	9,784,710	10,744,807	-	-	-	**20,529,517**
Less: 2009-10 Amount Avail. for Year-End Transfer	-	-	-	-	-	**-**
2009-10 Estimated Ending Fund Balance	**30,811,858**	**29,506,312**	**12,579,503**	**8,513,903**	**1,951,588**	**83,363,164**
Less: Funding for Carryovers to 2011	1,019,516	-	2,879,480	409,350	555,951	**4,864,297**
Less: Funding for 2011-12 Service Packages	1,222,590	-	-	-	-	**1,222,590**
2011 Budgeted Beginning Fund Balance	**28,569,752**	**29,506,312**	**9,700,023**	**8,104,553**	**1,395,637**	**77,276,277**
Plus: 2011-12 Budgeted Revenues	185,982,056	67,992,963	50,731,089	19,165,877	29,462,954	**353,334,939**
Less: 2011-12 Budgeted Expenditures	184,056,113	76,921,181	49,195,740	20,003,107	28,795,279	**358,971,420**
2012 Budgeted Ending Fund Balance	**31,718,285**	**20,578,094**	**13,038,811**	**7,267,323**	**2,063,312**	**74,665,825**
Reserved	*25,124,878*	*17,546,308*	*10,245,806*	*6,013,580*	-	*58,930,572*
Unreserved Working Capital	*6,593,407*	*3,031,786*	*2,793,005*	*1,253,743*	*2,063,312*	*15,735,253*
Change in Fund Balance: Beginning 2009 to Ending 2012	**9,532,504**	**(23,674,324)**	**(2,677,257)**	**(2,493,809)**	**724,764**	**(18,588,122)**

Notes:

Change in Fund Balance depicts the effects of the current and coming year's financial transactions on available resources. A minimum level of fund balance must be maintained in each fund to assure adequate cash flow. In all cases, fund balance is at or above the minimum level. A negative change in fund balance is not necessarily a reflection of a problem. Rather, it typically reflects the use of accumulated resources for planned expenditures (e.g. use of bond proceeds for capital projects). The significant decline in non-operating funds is partially due to a change in accounting standards, which consolidated some of these funds into general government operating funds.

Greater detail regarding the change in fund balances can be found in the following sections: General Government Operating Funds, General Government Non-Operating

CITY OF KIRKLAND
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CITY OF KIRKLAND
ESTIMATED FUND BALANCE / RESERVES
2011-2012 BUDGET WITH TARGETS

General Purpose Reserves

Fund/Reserve	2012 Est. Ending Bal	Current Target	Restriction Type	Allowable Uses	Source of Funds
Contingency	2,246,510	4,016,232	Legal	Reserve for unforeseen expenditures	Interest income and year-end transfer from General Fund
General Capital Contingency	4,437,370	6,766,320	Policy	Reserve for unforeseen changes in project cost or scope	Year-end transfer from General Fund
General Government Operating					
General Operating Reserve (Rainy Day Reserve)	2,806,513	4,127,496	Policy	Reserve for unforeseen revenue losses and other temporary events	Interest income and other General Fund revenue
Revenue Stabilization Reserve	731,431	2,279,251	Policy	Revenue Stabilization Reserve to smooth revenue receipts through economic cycles	General Fund revenue
Building and Property Reserve	1,972,213	N/A	Legal	Reserve for building improvements and property related transactions	Street vacations, property sale proceeds and other General Fund revenue
Council Special Projects	251,534	250,000	Policy	Reserve for unanticipated Council special projects	General Fund revenue
Total General Purpose Reserves	**12,445,571**				

Restricted Fund Balance

Fund/Reserve	2012 Est. Ending Bal	Current Target	Restriction Type	Allowable Uses	Source of Funds
Excise Tax Capital Improvement					
REET 1	1,081,284	1,035,000	Legal	Parks projects, Park debt service, & Transportation projects	1st quarter percent Real Estate Excise Tax (REET 1)
REET 2	4,965,034	11,484,000	Legal	Transportation projects and CIP Transp. grant match	2nd quarter percent Real Estate Excise Tax (REET 2)
Equipment Rental					
Vehicle Reserve	7,400,451	7,400,451	Policy	Vehicle replacement reserve	User charges to other funds
Radio Reserve	-	TBD*	Policy	Radio replacement reserve	User charges to other funds
Information Technology					
PC Replacement Reserve	321,376	321,376	Policy	PC equipment replacement reserve	User charges to other funds
Major Systems Replacement Reserve	84,900	TBD*	Policy	Reserve for replacement of major technology systems	Initial funding from General Capital Contingency; future funding from user charges to other funds
Facilities Maintenance					
Operating Reserve	550,000	550,000	Policy	Reserve for maintenance and repair of City buildings	Year-end transfer from General Fund
Sinking Fund	2,050,023	2,050,023	Policy	20 year Facilities Life Cycle costs	User charges to other funds
Impact Fees					
Roads	869,392	N/A	Legal	Transportation capacity projects	Road impact fees and interest income
Parks	12,681	N/A	Legal	Park capacity projects	Park impact fees and interest income
Bond Reserve	537,700	N/A	Legal	Park projects identified with Park bond issue	Park bond funds reserved for future park projects
Cemetery Improvement	592,393	N/A	Legal	Reserve for cemetery improvements and debt service	75% of cemetery lot sales

*To Be Determined (TBD) - the targets for these reserves are under review.

CITY OF KIRKLAND
ESTIMATED FUND BALANCE / RESERVES
2011-2012 BUDGET WITH TARGETS

Restricted Fund Balance (Continued)

Fund/Reserve	2012 Est. Ending Bal	Current Target	Restriction Type	Allowable Uses	Source of Funds
Off-Street Parking	10,777	N/A	Legal	Reserve for parking improvements in the Central Business Dist.	Fees collected in lieu of parking
Tour Dock	75,315	N/A	Legal	Dock repairs	Tour dock fees
Street Improvement	1,215,693	N/A	Legal	Street improvements	Gas tax, sales tax and transfers from the surface water utility
Firefighter's Pension					
Pension Benefits	834,305	834,305	Legal	Pre-LEOFF 1 firefighters' pension benefits	Fire insurance premium tax
Long-Term Care Benefits	898,666	733,902	Legal	Pre-LEOFF 1 firefighters' long-term care benefits	Fire insurance premium tax
General Government Operating					
Litigation Reserve	50,000	50,000	Policy	Anticipated litigation expense for outside counsel	General Fund revenue
Labor Relations Reserve	69,565	N/A	Policy	Anticipated labor negotiation expenses	General Fund revenue
Police Equipment Reserve	-	N/A	Legal	Narcotics investigations	Seized property
LEOFF 1 Police Reserve	618,079	1,249,616	Policy	Police long-term care benefits	General Fund revenue
Facilities Expansion Reserve	800,000	N/A	Policy	Public Safety building	Interest income and year-end transfer from General Fund
Development Services Reserve	776,821	N/A	Policy	Revenue and staffing stabilization through economic cycles	Development services revenues
Tree Ordinance	19,117	N/A	Legal	Replacement trees program	Tree planting fee-in-lieu and tree removal fines
Donation Accounts	122,680	N/A	Legal	Purpose donation was given	Donations
Revolving Accounts	565,985	N/A	Policy	Purpose which the fee or reimbursement was collected	Fees and reimbursements
Total Restricted Fund Balance	**24,522,237**				

Water/Sewer Utility

Fund/Reserve	2012 Est. Ending Bal	Current Target	Restriction Type	Allowable Uses	Source of Funds
Operating Fund					
W/S General Operating Reserve	1,979,380	1,979,380	Legal	Rate stabilization reserve	Utility rates
Non-Operating Funds					
Debt Service Reserve	508,717	508,717	Legal	Reserve for debt service	Utility rates
Water/Sewer CIP Contingency	1,793,630	1,793,630	Legal	Reserve for unanticipated changes in Water/Sewer CIP project cost or scope	Available cash transfers and connection fees
Construction Reserve	5,964,079	N/A	Policy	Utility capital projects	Connection fees and interest
Total Water/Sewer Utility	**10,245,806**				

CITY OF KIRKLAND
ESTIMATED FUND BALANCE / RESERVES
2011-2012 BUDGET WITH TARGETS

Surface Water Utility

Fund/Reserve	2012 Est. Ending Bal	Current Target	Restriction Type	Allowable Uses	Source of Funds
Operating Fund					
Surface Water General Operating Reserve	412,875	412,875	Legal	Available fund balance for operating reserve	Surface Water fees
Non-Operating Funds					
Surface Water CIP Contingency	758,400	758,400	Legal	Reserve for unanticipated changes in Surface Water CIP project cost or scope	Available cash transfers
Surface Water Capital Reserve Transportation Project Related	2,447,053	N/A	Policy	Surface Water capital projects	Interest income & depreciation transfers
Surface Water Capital Reserve Surface Water Project Related	2,395,252	N/A	Policy	Surface Water capital projects	Interest income & depreciation transfers
Total Surface Water Utility	**6,013,580**				

TOTAL ALL FUNDS	**53,227,194**

Attachment F

Current General Purpose Reserves Policies

Current Policies						(Under)/Over Target	
Item	Description	Policy and Replenishments	2011-12 Target (w/o Annexation)	2011-12 Target (with Annexation)	2012 Estimated Ending Balance	w/o Annexation	with Annexation
Contingency	The Contingency Fund was established pursuant to RCW 35A.33.145 to "provide monies with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual {biennial} budget."	State law sets the maximum balance in the fund at $.375 per $1,000 of assessed valuation. This reserve would be used to address unforeseen expenditures (as opposed to revenue shortfalls addressed by the Revenue Stabilization Reserve). Annual contributions to the Contingency Fund will be budgeted from interest income and General Fund resources if required.	The maximum amount would be 0.375 per 1,000 of 2011 Assessed Valuation of 10,709,950,883 =	The maximum amount would be 0.375 per 1,000 of 2011 Assessed Valuation of 16,218,101,434 =			
			4,016,232	**6,081,788**	**2,246,510**	**(1,769,722)**	**(3,835,278)**
General Capital Contingency	This reserve is available to fund general capital projects when the scope or cost of the project exceeds the budgeted amount. Funding is received from the General Fund year-end transfer and interest income. Use of the General Capital Contingency is secured through a request to Council. Typically, this reserve has covered changes in project scope or unanticipated costs that arose out of the bid process or unavoidable change orders.	The target established by fiscal policy is ten percent of the funded six-year Capital Improvement Program (CIP) less utility projects. Council granted limited administrative authority to the City Manager to fund small project overruns (e.g. up to $100,000 per year each for the general and utility capital reserves with up to $25,000 for any single project). Replenishments will be made from General Fund resources as they are available.	10% of the 2011-2016 Funded CIP less Utility Projects, Equipment Rental, and Transporation projects funded by Surface Water 67,663,199=	10% of the 2011-2016 Funded CIP less Utility Projects, Equipment Rental, and Transporation projects funded by Surface Water 67,663,199=			
			6,766,320	**6,766,320**	**4,437,370**	**(2,328,950)**	**(2,328,950)**
General Operating Reserve (Rainy Day Reserve)	This reserve is to be used for unforeseen revenue losses and other temporary events. If the reserve is utilized by the City Council, the authorization should be accompanied by a plan for replenishing the reserve within a two to three year period.	For the City's "Rainy Day" fund, the target is established by fiscal policy at five percent of the operating budget (excluding utility and internal service funds). Each biennium, the target amount will change proportional to the change in the operating budget. To maintain full funding, the increment between five percent of the second year of the prior biennium budget and the second year of the current biennium budget would be added or subtracted utilizing interest income and year-end fund balance in the General Fund.	5% of the Operating Budget (second year of the biennium only) less Utility and Internal Service Funds 69,465,478 =	5% of the Operating Budget (second year of the biennium only) less Utility and Internal Service Funds 82,549,913 =			
			3,473,324	**4,127,496**	**2,806,513**	**(666,811)**	**(1,320,983)**
Revenue Stabilization Reserve	The Revenue Stabilization Reserve was approved by Council in 2003 and was created by segregating a portion of the General Operating Reserve. The purpose of this reserve is to provide an easy mechanism to tap reserves to address temporary revenue shortfalls resulting from temporary circumstances (e.g. economic cycles, weather-related fluctuations in revenue).	Council set the target at ten percent of selected General Fund revenue sources which are subject to volatility (primarily sales tax and utility taxes). The Revenue Stabilization Reserve may be used in its entirety; however, replenishing the reserve will constitute the first priority for use of year-end fund balance in the General Fund.	10% of Selected General Fund Revenue Sources 19,541,226 =	10% of Selected General Fund Revenue Sources 22,792,507 =			
			1,954,123	**2,279,251**	**731,431**	**(1,222,692)**	**(1,547,820)**
Council Special Projects	This reserve is available to the City Council to fund special one-time projects that were unforeseen at the time the budget was prepared. When the reserve is used, it is replenished from the General Fund year-end fund balance.	Replenishment from year-end fund balance in the General Fund.	**250,000**	**250,000**	**251,534**	**1,534**	**1,534**
		Subtotal	**16,459,999**	**19,504,855**	**10,473,358**	**(5,986,641)**	**(9,031,496)**
Building and Property Reserve	This reserve is used for property purchases, building improvements and other property-related transactions. It has also been used as a general purpose reserve to fund Council-approved unanticipated expenditures.	Funding sources include: Street vacations, property sale proceeds and year-end transfer from General Fund. Current balance planned for use toward annexation facilities projects.	**N/A**	**N/A**	**1,972,213**	**N/A**	**N/A**
		Total	**16,459,999**	**19,504,855**	**12,445,571**	**(5,986,641)**	**(9,031,496)**

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Attachment G

10-Year History of General Purpose Reserves with Percentage of Target

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	10 Year Average
Contingency											
Beginning Balance	2,247,561	2,490,257	2,490,257	2,523,257	2,357,321	2,291,028	2,815,790	2,463,851	2,328,060	1,846,045	2,385,343
Uses	(481,490)	-		(165,936)	(66,293)	(336,036)	(365,936)	(250,339)	(482,015)	(125,822)	(252,652)
Additions	724,186	-	33,000	-	-	860,798	13,997	114,548	-	331,647	207,818
Ending Balance	2,490,257	2,490,257	2,523,257	2,357,321	2,291,028	2,815,790	2,463,851	2,328,060	1,846,045	2,051,870	2,365,774
Target	2,236,603	2,522,990	2,665,606	2,783,854	2,952,183	3,285,172	3,698,456	4,277,723	4,915,571	4,242,600	3,358,076
Ending Balance as % of Target	**111%**	**99%**	**95%**	**85%**	**78%**	**86%**	**67%**	**54%**	**38%**	**48%**	**76%**
General Capital Contingency											
Beginning Balance	4,372,150	4,505,274	4,425,274	4,209,340	2,979,056	3,737,337	3,518,137	3,312,834	3,269,834	2,178,047	3,650,728
Uses	(1,633,000)	(80,000)	(1,025,000)	(1,608,350)	(1,110,000)	(219,200)	(205,303)	(43,000)	(1,091,787)	(71,803)	(708,744)
Additions	1,766,124	-	809,066	378,066	1,868,281	-	-	-	-	-	482,154
Ending Balance	4,505,274	4,425,274	4,209,340	2,979,056	3,737,337	3,518,137	3,312,834	3,269,834	2,178,047	2,106,244	3,424,138
Target	4,227,714	3,968,149	4,304,899	5,708,260	5,900,568	5,900,568	5,822,280	5,822,280	9,032,430	9,032,430	6,198,918
Ending Balance as % of Target	**107%**	**112%**	**98%**	**52%**	**63%**	**60%**	**57%**	**56%**	**24%**	**23%**	**65%**
General Operating Reserve (Rainy Day Reserve)											
Beginning Balance	4,228,836	4,228,836	4,228,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	3,167,636
Uses			(2,320,000)		-	-	-	-	-	-	(331,429)
Additions			804,000		-	-	-	-	-	-	114,857
Ending Balance	4,228,836	4,228,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	2,712,836	3,016,036
Target	5,005,545	5,186,247	5,231,717	2,381,091	2,676,890	2,676,890	3,134,779	3,134,779	3,567,649	3,567,649	3,625,824
Ending Balance as % of Target	**84%**	**82%**	**52%**	**114%**	**101%**	**101%**	**87%**	**87%**	**76%**	**76%**	**86%**
Revenue Stabilization Reserve											
Beginning Balance	N/A	N/A	1,500,000	1,500,000	1,493,480	1,493,480	2,082,380	2,082,380	2,082,380	-	1,529,263
Uses			-	(6,520)	-	6,520	-	-	(2,082,380)	-	(260,298)
Additions			-	-	-	582,380	-	-	-	-	72,798
Ending Balance			1,500,000	1,493,480	1,493,480	2,082,380	2,082,380	2,082,380	-	-	1,341,763
Target				1,743,568	2,082,380	2,082,380	2,143,422	2,143,422	2,188,803	2,188,803	2,053,447
Ending Balance as % of Target				**86%**	**72%**	**100%**	**97%**	**97%**	**0%**	**0%**	**65%**
Council Special Projects											
Beginning Balance	260,420	259,299	257,560	306,760	271,920	267,160	309,960	276,960	271,960	167,684	264,968
Uses	(161,121)	(1,739)	(70,800)	(77,000)	(96,200)	-	(33,000)	(5,000)	(104,276)	(46,150)	(59,529)
Additions	160,000	-	120,000	42,160	91,440	42,800	-	-	-	80,000	53,640
Ending Balance	259,299	257,560	306,760	271,920	267,160	309,960	276,960	271,960	167,684	201,534	259,080
Target	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000	250,000
Ending Balance as % of Target	**104%**	**103%**	**123%**	**109%**	**107%**	**124%**	**111%**	**109%**	**67%**	**81%**	**104%**
Building and Property Reserve											
Beginning Balance	3,780,276	2,830,928	2,855,882	1,851,946	1,827,882	1,901,022	1,842,970	2,059,669	2,059,669	1,934,669	2,294,491
Uses	(3,891,685)	(167,609)	(1,010,996)	(24,064)	-	(217,363)	(10,000)	-	(125,000)	-	(544,672)
Additions	2,942,337	192,563	7,060		73,140	159,311	226,699	-	-	-	400,123
Ending Balance	2,830,928	2,855,882	1,851,946	1,827,882	1,901,022	1,842,970	2,059,669	2,059,669	1,934,669	1,934,669	2,109,931
Ending Balance as % of Target	**104%**	**7%**	**0%**	**0%**	**4%**	**9%**	**11%**	**0%**	**0%**	**0%**	**13%**

Total General Purpose Reserves											
Beginning Balance	14,889,243	14,314,594	14,257,809	11,604,139	10,149,015	10,909,383	11,199,693	10,826,150	10,642,359	8,839,281	11,763,167
Uses	(6,167,296)	(249,348)	(4,426,796)	(1,875,350)	(1,272,493)	(772,599)	(614,239)	(298,339)	(3,885,458)	(243,775)	(1,980,569)
Additions	5,592,647	192,563	969,126	420,226	2,032,861	1,062,909	240,696	114,548	-	411,647	1,103,722
Ending Balance	14,314,594	14,257,809	11,604,139	10,149,015	10,909,383	11,199,693	10,826,150	10,642,359	8,839,281	9,007,153	11,174,958
Target	11,719,862	11,927,386	12,452,222	12,866,773	13,862,021	14,195,010	15,048,937	15,628,204	19,954,453	19,281,482	
Ending Balance as % of Target	**122%**	**120%**	**93%**	**79%**	**79%**	**79%**	**72%**	**68%**	**44%**	**47%**	**80%**
Ending Balance as % of GF Revenues	**38.62%**	**38.99%**	**28.49%**	**23.98%**	**23.38%**	**21.62%**	**20.01%**	**19.77%**	**15.01%**	**15.92%**	**25%**

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Attachment H

General Purpose Reserves with Staff Recommendations

Current Policies			Preliminary Staff Recommendations				
Item	**Description**	**Policy and Replenishments**	**Staff Recommended Policy**	**2011-12 Target (with Annexation)**	**2012 Estimated Ending Balance**	**(Under)/Over Target**	**Ending Balance as % of Target**
Contingency (Fund 152)	The Contingency Fund was established pursuant to RCW 35A.33.145 to "provide monies with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual {biennial} budget."	State law sets the maximum balance in the fund at $0.375 per $1,000 of assessed valuation. This reserve would be used to address unforeseen expenditures (as opposed to revenue shortfalls addressed by the Revenue Stabilization Reserve). Annual contributions to the Contingency Fund will be budgeted from interest income and General Fund resources if required.	Target calculation set at 80% of statutory maximum	The maximum amount would be $0.375 per $1,000 of 2011 Assessed Valuation of 16,218,104,434, the target would be 80% of the maximum =			
				4,865,430	**2,246,510**	**(2,618,920)**	**46.2%**
General Capital Contingency (Fund 310)	This reserve is available to fund general capital projects when the scope or cost of the project exceeds the budgeted amount. Funding is received from the General Fund year-end transfer and interest income. Use of the General Capital Contingency is secured through a request to Council. Typically, this reserve has covered changes in project scope or unanticipated costs that arose out of the bid process or unavoidable change orders.	The target established by fiscal policy is ten percent of the funded six-year Capital Improvement Program (CIP) less utility projects. Council granted limited administrative authority to the City Manager to fund small project overruns (e.g. up to $100,000 per year each for the general and utility capital reserves with up to $25,000 for any single project). Replenishments will be made from General Fund resources as they are available.	10% of the biennial (2011-2012) Funded CIP less Utility Projects, Equipment Rental, and Transportation projects funded by Surface Water	10% of the 2011-2012 Funded CIP less Utility Projects, Equipment Rental, and Transportation projects funded by Surface Water 46,319,040 =			
				4,631,904	**4,437,370**	**(194,534)**	**95.8%**
General Operating Reserve (Rainy Day Reserve)	This reserve is to be used for unforeseen revenue losses and other temporary events. If the reserve is utilized by the City Council, the authorization should be accompanied by a plan for replenishing the reserve within a two to three year period.	For the City's "Rainy Day" fund, the target is established by fiscal policy at five percent of the operating budget (excluding utility and internal service funds). Each biennium, the target amount will change proportional to the change in the operating budget. To maintain full funding, the increment between five percent of the second year of the prior biennium budget and the second year of the current biennium budget would be added or subtracted utilizing interest income and year-end fund balance in the General Fund.	No change	5% of the Operating Budget (second year of the biennium only) less Utility and Internal Service Funds 82,549,913 =			
				4,127,496	**2,806,513**	**(1,320,983)**	**68.0%**
Revenue Stabilization Reserve	The Revenue Stabilization Reserve was approved by Council in 2003 and was created by segregating a portion of the General Operating Reserve. The purpose of this reserve is to provide an easy mechanism to tap reserves to address temporary revenue shortfalls resulting from temporary circumstances (e.g. economic cycles, weather-related fluctuations in revenue).	Council set the target at ten percent of selected General Fund revenue sources which are subject to volatility (primarily sales tax and utility taxes). The Revenue Stabilization Reserve may be used in its entirety; however, replenishing the reserve will constitute the first priority for use of year-end fund balance in the General Fund.	No change	10% of Selected General Fund Revenue Sources 22,792,507 =			
				2,279,251	**731,431**	**(1,547,820)**	**32.1%**
Council Special Projects	This reserve is available to the City Council to fund special one-time projects that were unforeseen at the time the budget was prepared. When the reserve is used, it is replenished from the General Fund year-end fund balance.	Replenishment from year-end fund balance in the General Fund.	No change	**250,000**	**251,534**	**1,534**	**100.6%**
		Subtotal		**16,154,081**	**10,473,358**	**(5,680,723)**	**64.8%**
Building and Property Reserve	This reserve is used for property purchases, building improvements and other property-related transactions. It has also been used as a general purpose reserve to fund Council-approved unanticipated expenditures.	Funding sources include: Street vacations, property sale proceeds and year-end transfer from General Fund. Current balance planned for use toward annexation facilities projects.	No change	**N/A**	**1,972,213**	**N/A**	**N/A**
		Total		**16,154,081**	**12,445,571**	**(5,680,723)**	**77.0%**

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

To: Kurt Triplett, City Manager

From: David Godfrey, P.E. Transportation Engineering Manager
Ray Steiger, P.E., Public Works Director

Date: September 22, 2011

Subject: WALK YOUR CHILD TO SCHOOL PROCLAMATION

RECOMMENDATION:

It is recommended that the City Council authorize the Mayor to sign a proclamation for Walk Your Child to School Week.

BACKGROUND DISCUSSION:

October 5 is international Walk to School Day. The City Council has presented Walk to School Week proclamations in past years to designate the annual Walk Your Child to School Week in Kirkland. This year the event is October 3rd – October 7th. Council members are invited to participate in the Feature Day for each elementary school and staff will be coordinating with Council schedules. The schedule is listed below.

Monday, October 3rd	8.30 – 9.00	Juanita
Tuesday, October 4th	8.30 – 9:00	Lakeview
Wednesday, October 5th	8.15 – 8.45	Peter Kirk
Wednesday, October 5th	8.00 – 9.00	Carl Sandburg
Thursday, October 6th	8.30 – 9.00	A. G. Bell
Thursday, October 6th	8.00 – 9.00	Henry David Thoreau
Monday, October 10th	8.30 – 9.00	Ben Franklin
Friday, October 14th	8.00 – 8.30	Mark Twain
Friday, October 14th	8.25 – 8.45	John Muir

Representatives from the individual elementary schools coordinate activities at their school. In past years, City Neighborhood Traffic Control Program staff has conducted a meeting with the representatives to share ideas and coordinate timing. This year a volunteer, recruited through the City's volunteer program, has contacted the schools and brought school representatives together. Police and Fire staff will be available to attend events and Ped Bee, the Pedestrian Safety Bee, will be at several schools throughout the week.

Chantal Mees Koch from Carl Sandburg Elementary School, Juliette Serr from Peter Kirk Elementary School and Margaret Landon from Ben Franklin Elementary School plan to attend the City Council meeting to accept the proclamation on behalf of all the participating schools.

A PROCLAMATION OF THE CITY OF KIRKLAND

Proclaiming October 3 to 7, 2011, as "Walk Your Child to School Week" in Kirkland, Washington

WHEREAS, the National Center for Safe Routes to School, a group working to improve safety and health and walking conditions for children, encourages local communities to support International Walk to School Day and similar activities; and

WHEREAS, walking to school encourages physical fitness through the easiest-to-do and most enjoyable form of exercise and promotes safety by teaching children the skills to walk safely and to identify safe routes to school; and

WHEREAS, the City of Kirkland recognizes the importance of pedestrian safety and has constructed multiple improvements to school walk routes across the City; and

WHEREAS, children, parents and community leaders in Kirkland are encouraged to walk to school every day but particularly during the week of October 3 through 7, 2011;

NOW, THEREFORE, I, Joan McBride, Mayor of Kirkland, do hereby proclaim the week of October 3 to 7, 2011, as "Walk Your Child to School Week" in the City of Kirkland, Washington and encourage everyone to consider the safety of pedestrians today and every day.

Signed this 4th day of October, 2011

_____

Joan McBride, Mayor

CITY OF KIRKLAND
Fire & Building Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3650
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Grace Steuart, Fire Marshal

Date: September 22, 2011

Subject: Fire Prevention Week Proclamation

RECOMMENDATION:

Council proclaims that October 9th through the 15th, 2011 is Fire Prevention Week.

BACKGROUND DISCUSSION:

Each year, the nation observes "National Fire Prevention Week" during the second week of October. This week commemorates the Great Chicago Fire of 1871, in which more than 250 persons were killed, 100,000 were left homeless, and more than 17,400 buildings were destroyed.

In 1920, President Woodrow Wilson issued the first National Fire Prevention Day proclamation, and since 1922, Fire Prevention Week has been observed on the Sunday through Saturday period in which October 9 falls. According to the National Archives and Records Administration's Library Information Center, Fire Prevention Week is the longest running public health and safety observance on record. The President of the United States has signed a proclamation proclaiming a national observance during that week every year since 1925.

Proclamations creating Fire Prevention Week at the local level support the efforts of professionals across the country to reduce injuries, deaths, and property loss, resulting from preventable fires.

The non-profit National Fire Protection Association (NFPA) has been the official sponsor of National Fire Prevention Week for over 80 years. This year's theme, "**IT'S FIRE PREVENTION WEEK - PROTECT YOUR FAMILY FROM FIRE"** is designed to encourage citizens to take personal responsibility for their family's safety.

Based on this year's theme, families are encouraged to practice a home fire escape plan, to check their homes for and eliminate safety hazards, and to make sure they have working smoke detectors.

A PROCLAMATION OF THE CITY OF KIRKLAND

Proclaiming October 9-15, 2011 as "Fire Prevention Week" in Kirkland, Washington

WHEREAS, since 1925, the President of the United States has signed a proclamation each year pronouncing a week of observance for fire prevention; and

WHEREAS, the National Fire Protection Agency, the world's leading advocate in fire prevention, encourages communities to participate in its annual "Fire Prevention Week" campaign; and

WHEREAS; the educational theme being promoted by the National Fire Protection Agency for Fire Prevention Week 2011 is **"Protect Your Family Fire**;" and

WHEREAS, fire losses in the United States have improved but still remain unacceptably high thereby necessitating citizens to take action; and

WHEREAS, most fires are both predictable and preventable; and

WHEREAS, Kirkland citizens are capable of taking personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the City of Kirkland is committed to ensuring the safety and security of those living in and visiting our City;

NOW, THEREFORE, I, Joan McBride, Mayor of Kirkland, do hereby proclaim October 9-15, 2011 to be "**Fire Prevention Week"** in the City of Kirkland, to encourage residents to protect their homes and families from fire by practicing a home escape plan, by making sure they have working smoke detectors, and by eliminating fire hazards that can cause the loss of life and property.

Signed this 4th Day of October, 2011

_____

Joan McBride, Mayor

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kelly Ferron, Recycling Programs Coordinator
Ray Steiger, P.E., Public Works Director

Date: September 19, 2011

Subject: Green Tip: Using Twitter as an Outreach Tool

Working in cooperation with the IT Department, the Solid Waste and Surface Water Groups of the Public Works Department have created a Twitter profile, @KirklandEnviro, to incorporate social media as part of City outreach efforts. Twitter is a social media website, designed as a networking and micro-blogging tool. Users may create a profile from which they write short messages, or "tweets", that can seen by other users that choose to "follow" these profiles. Twitter is a simple way to communicate with the public and to see what other organizations, governments, or businesses are doing in their field.

The @KirklandEnviro Twitter account will be used as another way to communicate with the public, stay connected with other environmentally-minded organizations, and allow the public to contact the City with questions and/or concerns. This Twitter page will be promoting events, workshops, outreach tables at local events and volunteer opportunities. Staff will also be "tweeting" about recycling facts, articles and tips on waste reduction, and regional water quality issues, as well as answering any questions people may have for us about City programs.

Social Media websites have become mainstream in the environmental field, especially for recycling and waste reduction. A study done by the Curbside Value Partnership showed that 70 percent of recycling coordinators in the United States are using social media to promote recycling. Local cities, organizations, and environmental advocates have jumped on board with this format and include organizations such as the City of Bothell, Edmonds, King County and relevant organizations that we partner with, such as Puget Sound Starts Here.

@KirklandEnviro will be another way to communicate with the public and promote the City's environmental programs. Follow us to stay up to date! You can find us at http://twitter.com/#!/KirklandEnviro.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: David Godfrey, P.E., Transportation Engineering Manager
Ray Steiger, P.E., Public Works Director

Date: September 22, 2011

Subject: Transportation Commission Work Plan

RECOMMENDATION:

It is recommended that the Council review and approve the attached Transportation Commission Work Plan.

BACKGROUND:

Each year the Transportation Commission develops a work plan for the upcoming 12 months. The plan for July of 2011 through June of 2012 is included as Attachment A for review and consideration by the Council. The work plan is assembled in three general priorities: most important, maintain, and monitor. In addition, there are a number of items tied to outside events or activities and thus Transportation Commission activities are scheduled to coincide.

Transportation Conversations , a document approved by City Council in June of 2010, forms the basis for much of the Commission's proposed work plan and will be utilized as a framework for completion of the individual tasks.

The development of a strategic plan for the Eastside Rail Corridor is a new work item that will build on the Corridor *Interest Statement* that the Commission prepared and that was approved by City Council in April, 2011. As was discussed at the Council/Board and Commission Chair meeting in July, this work will require significant coordination with the Park Board.

Another new item is a proposal to develop and evaluate various strategies to enhance the pedestrian environment along Lake Washington Boulevard.

Finally, as has been the practice in the past, at key points during the development of work products, the Transportation Commission will seek comments and approval from City Council.

The Commission welcomes any other assignments or tasks on which the Council would like the Commission's support. Often these items are identified throughout the year. An example from the previous year was the Commission's drafting of a letter commenting on the conclusions of King County Metro's Transit Task Force.

Attachment A

Transportation Commission Work Plan

July 2011 – June 2012

Principles: *Move People, Be Sustainable, Be an Active Partner, Link to Land Use*

Major Accomplishments previous 12 months			
ITEM		ACTION/COMMENTS	DATE
Eastside Rail Corridor interest statement		Approved by Council	4/19/11
Most important items to be proactively pursued with action expected			
ITEM		ACTION/COMMENTS	DATE
Eastside Rail Corridor		Develop trail strategic plan	Timing as appropriate
Transportation planning for new neighborhoods		Attend meetings of new neighborhood groups	After 9/2011
From Transportation Conversations	**Develop new level of service standards that align with transportation principles**	Complete development of multimodal level of service	Current through 6/2012
	Develop clear goals and prioritization systems for project categories	Includes ranking and funding	Timing appropriate for CIP and concurrency
	Develop ideas and strategies for linking Pollution, Climate change and health into Comprehensive Plan policies	Develop ideas/strategies including electric vehicle infrastructure	1/2012
	Review and revise concurrency system	Develop overall framework for system. Includes development of a future. transportation network.	Begin 9/2011
Lake Washington Boardwalk		Conceptualize and propose project.	Begin 1/2012
Maintain these items are routine or recurring			
ITEM		ACTION/COMMENTS	DATE
Comprehensive Plan updates		None in 2011	
Elect officers		Last meeting of 2011	December
CIP process update		Minor update planned	7/2011- 12/2011
Active Trans. Plan implementation		Plan calls for annual report	September 2010
ITS Plan implementation		Commission to receive annual update	September 2010
Monitor no particular action needed, but keep track of what is going on with these items.			
ITEM		ACTION/COMMENTS	DATE
SR 520 Eastside project/tolling			Throughout the year
I-405 Express Toll lanes/NE 116th construction			
Metro and Sound Transit Service Planning			
Determine transportation actions/investments that would be helpful for development of Totem Lake			

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director

Date: September 22, 2011

Subject: KIRKLAND PERFORMANCE CENTER PRESENTATION

RECOMMENDATION:

That the City Council receives a presentation on the Kirkland Performance Center operations by Executive Director, Dan Mayer.

BACKGROUND DISCUSSION:

Attached is the annual report from Dan Mayer, which provides a summary of the 2010-2011 season, an overview of the upcoming 2011-2012 season, and a financial report.

In 2008, the City renewed the 10 year lease with Kirkland Performance Center (KPC) for operation of the performance center. The City contributes to the operation of KPC in several ways:

- As the landlord of the facility, the City has certain obligations with respect to the structural components of the facility. These obligations are primarily limited to maintenance of the roof, exterior walls, foundation, the facility's HVAC system and elevator, as well as testing and repair of the theater's fire suppression system.

- The City incurs costs related to annual property insurance.

- The City returns to KPC all funds derived from the admission tax collected from KPC ticket sales. This was granted for the first 10 year lease with KPC. Additionally, this was granted for the first five years of the second 10-year lease agreement signed in 2008. This stipulation will expire at the end of 2012 unless extended by Council. The admission tax rate is 5% of ticket sales. The refund for 2010 was $25,795.

- The City allocates one-time funds each year to assist in program operations of KPC. These funds assist the KPC operating budget and ability to program the facility. The City has contributed one-time funds of $50,000 for the years 2004-2009 and in 2010 this

amount was reduced to $34,000. For 2011-2012, Council approved the same level of $34,000 per year. This allocation is considered Outside Agency Support. KPC applies for these funds every biennium.

- The City provides the lease to KPC rent-free, similar to the leases the City currently has with YMCA to operate the Kirkland Teen Union Building, and Youth Eastside Services, operating out of the Forbes House at Juanita Beach. The City has historically recognized the leveraged value of leasing City facilities for minimal or no cost, in exchange for services to Kirkland citizens.

  When the City waived the rent requirement in both the initial lease and the renewal in 2008, the value of KPC's contributions to the development of the performing arts, along with KPC's cost to maintain and operate the building, was considered to provide community benefit sufficient to waive any rent requirement. KPC not only provides a venue for performing arts for citizens, it has a regional draw which impacts the economics of downtown restaurants and businesses.

Attachments
Attachment A: Letter from Dan Mayer/KPC Annual Report
Attachment B: List of Board of Directors
Attachment C: 2011 Year To Date Financial Summary

Kirkland Performance Center
A World of Arts…Near You!

September 23, 2011

Mayor Joan McBride and the Kirkland City Council
City of Kirkland
123 Fifth Ave.
Kirkland, WA 98033

Dear Mayor McBride and City Council Members:

On behalf of myself as Executive Director and our whole Board of Directors, thank you for the opportunity to present our annual update to you on Kirkland Performance Center. This has been a year of adaptation for the organization as we are changing to reflect a new economic reality and a community that has grown and diversified over that last few years. As I begin my third year as executive director I reflect on KPC's clarity of vision and our role in the community.

While I am grateful for the consistency of purpose of all the supporters of Kirkland Performance Center I am also acutely aware that the market has changed for arts and entertainment throughout our country and in Kirkland. The arts are available 24/7 on iPods, streaming live on the web, through NetFlix in your mailbox, and on high definition on a movie screen or in your living room. We must engage audiences and distinguish what is special and unique about live performances and work to integrate new technologies into the performing arts experience.

At our October board meeting, the Board of Directors will review the final draft of a new strategic plan that board committee members and staff have been working diligently on for the past year. The plan addresses these issues and moves KPC in exciting new directions to remain a vigorous force advocating and promoting the performing arts in our community.

Retrospective on our 2010-2011 Season

During the 2010-2011 Season Kirkland Performance Center hosted a record 41 presented artists coming to KPC from across the country and around the world. Part of the reason we were able to present this wealth of artists is that the presenting industry is shifting and we are responding by booking more artists on a shorter time frame. This puts more strain on our staff but enables us to present a wider range of artists at more reasonable artist fees. This greater flexibility in booking artists is allowing us to bring a greater diversity of artists to our stage and is making our social marketing more visible as we use our webpage, Facebook presence and dedicated e-newsletter lists to announce newly added artists and last minute opportunities to catch new artists at KPC.

The recent 2010-2011 Season featured many highlights including:

- Globally recognized trumpeter and *The Tonight Show's* bandleader for thirty years, Doc Severinsen & El Ritmo de la Vida
- A smash-hit vocal performance by singer-songwriter Paula Cole
- Oregon artists Hanz Araki & The Celtic Conspiracy performing a non-traditional holiday concert celebrating the Winter Solstice
- Harmonica master Lee Oskar and his band
- American Idol contestant Melinda Doolittle singing classic rhythm and blues
- Geoff Castle's Celtic Celebration, a true perennial favorite here at KPC

Our Upcoming 2011 - 2012 Season

The 2011-2012 Season began on September 11th with a very special sold out performance by the Brothers Four who returned to KPC to wrap up their 50th Anniversary Tour. This season resembles past seasons with a mix of well known names, new emerging musicians and dancers who will amaze with their voices and talents.

The upcoming 2010 – 2011 Season features many highlights, including:

- The Manhattan Short Film Festival, a global event happening in 250 cities simultaneously
- World-beat superstar Jesse Cook
- Romantic piano sensation Jim Brickman
- Science comedian and children's entertainer Doktor Kaboom!
- The Northwest Premiere of *The Rambler* by famed dance company Joe Goode Performance Group from San Francisco
- Jazz bassist and soundtrack composer Kyle Eastwood

Partnerships with Local Arts Organizations

One of the tenets of KPC's mission is to provide a home for other Eastside and regional arts organizations. We have also continued to maintain strong relationships with the local and regional arts community by providing a high quality venue and professional support services, allowing a dozen producing partner companies to present their work in our theatre. Partners appearing over the past year include:

- Seattle International Film Festival (SIFF)
- Kirkland-based Studio East's StoryBook Theater
- Seattle Repertory Jazz Orchestra
- Jim French's Imagination Theatre
- Lyric Light Opera (presenting *The Music Man* this month)
- Master Chorus Eastside
- Washington Wind Symphony

Our partnership with SIFF is growing in size and depth with each successive Season. Some of the highlights at this past festival included a sold out SIFF Eastside Opening Night, a preview evening

that included live Russian translation by our community partner the Russian Community Support Group and a special display by electric car enthusiasts coinciding with the documentary about electric cars. Attendance this past June was up over 2010 and we have a tentative commitment that SIFF will be back for June 2012.

In November of 2010, KPC hired our first-ever Education & Outreach Director. With this new staff position, KPC is now able to proactively reach out in new ways to fellow non-profits, educational institutions, and other community organizations to form new partnerships. For example, KPC worked with the Eastside Domestic Violence Program to host a toiletry drive in conjunction with our concert by Paula Cole (herself a passionate advocate for victims of domestic violence). We are thrilled to broaden and deepen our community engagement in the coming years.

Education Programs

As part of its organizational mission, Kirkland Performance Center provides discounted matinee tickets for Eastside school children, with free tickets for those on free and reduced lunch programs. Subsidized by KPC's "Field Trip Fund" and support from corporate and foundation funders, these performances by national and international presented artists fill a true educational gap in our community; there is no equivalent professional program in the Kirkland area. During our 2011-2012 Season, KPC will offer School Matinee performances by Doktor Kaboom!, Seattle Shakespeare Company, Galumpha, Foothills Brass and Book-It Repertory Theatre.

Additionally, Kirkland Performance Center has served more than 23,000 students since 2001 through our In-School Programs. This program brings presented artists to predominately Eastside schools for on-site performance and in-depth workshop experiences. KPC believes that these face-to-face interactions with working artists offer students a rare view into the world of a professional artist, often for the first time in their lives, which in turn, can increase their understanding of their world in general.

During our 2010-2011 Season, KPC served more than 400 students through our In-School Programs and 1,100 students through our School Matinees. Kirkland schools served include Lake Washington High School, BEST High School, Peter Kirk Elementary, Totem Preschool, Carl Sandburg Elementary, Lakeview Elementary, Eastside Preparatory School, Environmental & Adventure School, Northstar Junior High, Holy Family Parish School, and Kamiakin Jr. High. As always, students enrolled in the free or reduced lunch programs were not charged admission.

> *"For many of my students, [Romeo and Juliet] was their first play. They loved it. One student who cried during the performance is a student who's been suspended multiple times and is failing many classes. He was moved – they all were.*
>
> *The majority of my students are economically disadvantaged. All are immigrants, some refugees. Thank you so much for giving us this opportunity. In particular, the free tickets for students on free/reduced lunch made this trip possible for us. Thank you."* – Ruth S., high school teacher

Financial Report

Financially, 2010 was a year of financial stability, transparency, and opportunity. Recovering from the unparalleled economic decline of 2008 and 2009, KPC strengthened its FY2010 operating budget, artistic programming, and community impact. In an economy that has seen such estimable organizations like the Intiman Theater, Giant Magnet (Seattle International Children's Festival) and the Bellevue Philarmonic cease operations or close their doors, KPC has shored up its balance sheet and is on track in FY2011 to balance its budget for the first time in three years.

Audited financial statements for FY2010 are currently being finalized and should be available for distribution within the next few weeks. KPC realized a significantly lower deficit in FY2010 than FY2009. A large one-time bequest moderated increased operating expenses to establish our Spotlight! education program and to bring our development staff back up to levels necessary for an organization of our size. To put it another way, KPC was investing in its future and already in FY2011, we have seen impressive dividends.

Through June 30, 2011, KPC's income is up slightly over the same period last year, due in large part to an 11% increase in our contributed income. Additionally, expenses are down 5% demonstrating the success of our continual efforts to operate more efficiently and effectively. With a strong 2011-2012 season already begun, we anticipate income to be significantly higher than FY2010 while expenses will remain flat or slightly less leading to a positive net operating surplus for FY2011. Such financial strength paves the way for expansion and program development which we are undertaking as directed by our nearly finished strategic plan, one goal of which is to continue to build financial strength. In FY2012 we again expect to realize an operating surplus with which we will begin retiring our line of credit and building cash reserves. This more stable financial foundation are necessary for our ongoing work to serve the community meaningfully and imaginatively.

Board

KPC is proud of its growing and diverse Board of Directors. Headed by Board President Jeff Twersky, this group of 31 dedicated community leaders is very active in overseeing the financial, fundraising and operational activities of the organization. This has been a very active year for the board working with staff on strategic planning towards a new plan that will be adopted this Fall. This effort will create a blueprint that guides our organization and provides momentum for changes coming to KPC.

Also, this year we have had a very active Special Event Committee that has worked tirelessly planning our upcoming Gala and Auction on October 29th at the Hyatt Regency Bellevue. This evening will be emceed by Andy Wappler of Puget Sound Energy and John Curley returns as our auctioneer. It promises to be a wonderful gathering of community in support of the performing arts and arts education.

A roster of Board Members is attached.

City Support / Conclusion

The operational support that the City of Kirkland has steadfastly provided to Kirkland Performance Center has been a major reason why our organization has remained strong over the past twelve years. As stated previously, despite tremendous support and attendance from our constituency of

patrons, contributed income remains a challenge for our organization, and the City of Kirkland's operational support is more important now than it has ever been.

The past year has been one of great organizational stability but we are also shaking things up and changing our business model to reflect a Kirkland that is growing and shifting. We are completing a new strategic plan that does not assume "business as usual" but rather answers the issue of how we can build on the track record of service that KPC has in the community and strives to serve even more people and continue to be a vital hub for entertainment, economic development, and inspiration for the entire region.

Thanks for all you have done for our theatre and organization, and we look forward to many years ahead of a successful partnership with the City of Kirkland.

Sincerely,

Daniel Y. Mayer
Executive Director

enclosures

KIRKLAND PERFORMANCE CENTER
2011 Board of Directors

Officers

President
Jeffrey Twersky
Partner, Miller Kadish

Immediate Past President
Lauret Ballsun
President, LBC Pharmaceutical Professionals, LLC

President Elect
Kristin Olson
Shareholder, O'Shea Barnard Martin & Olson PS

Vice President
Bill Schultheis
Investment Counselor, Soundmark Wealth Management

Treasurer
Mike Nelson
Community Leader

Secretary
Srivani Jade
Musician

Officers At-Large

Dodi Briscoe
Career Coach, UW Foster School of Business

Doreen Marchione
Councilmember, City of Kirkland

Susan Raunig
Community Leader

Mike Ward
Sr. Director Intellectual Property, Intellectual Ventures

Members

David Alskog
Partner, Livengood, Fitzgerald & Alskog

Matthew C. Bueser
Director – 737 Program Business Operations, The Boeing Company

Jeff Cole
Director of Corporate Real Estate, Parkplace

Santos Contreras
Owner, Contreras & Associates

Kathy Feek
Art Consultant, Evergreen Hospital

David Feller
Senior Vice President, Investments
Wells Fargo Advisors

Kathe Fowler
Community Leader

G.G. Getz
Broker, Windermere Real Estate

Stephen L. Gomes
COO, Creative Motion Control Inc.

Kevin Harrang
Director, Business Development MetaJure, Inc.

Kevin M. Hughes
Government Relations, Hughes and Associates

Ben Lee
Senior Project Manager, The Boeing Company

David Mangone
Partner, WattsMedia

Lee Oskar
President, Lee Oskar Productions

Joyce Paul
Artistic Director, Arpan

Deborah Rice
Owner, Direct Mailing Solutions

Annette Seats
Community Leader

Elsa Steele
Managing Librarian, Kirkland Library

Beth M. Strosky
Attorney, Housing Justice Project, KCBA

Kay Taylor
VP Marketing & Communications, Evergreen Healthcare

Cindy Zech
Physical Therapist & President, PEP, Inc.

Kirkland Performance Center
YTD 2011 Financial Summary (Jan 1 - Jun 30, 201

P&L - Budget vs. Actual	Actual	Budget	$ Var	% of Annual Budget
Income				
Earned Income				
Rentals & Partners	109,785	77,200	32,585	62%
Ticket Sales	131,802	144,855	(13,053)	38%
Other	50,980	49,115	1,865	40%
Total Earned Income	**292,567**	**271,170**	**21,397**	45%
Contributed Income				
Individual	179,499	182,500	(3,001)	76%
Corporate	34,912	28,500	6,412	48%
Foundation	34,296	30,000	4,296	86%
Government	73,538	65,110	8,428	75%
Events	-	-	-	0%
In-Kind	8,275	13,000	(4,725)	34%
Total Contributed Income	**330,520**	**319,110**	**11,410**	51%
Total Income	**623,087**	**590,280**	**32,807**	48%
Expense				
Personnel	319,827	317,123	2,704	53%
Administration	52,619	53,912	(1,293)	53%
Marketing	50,219	62,934	(12,715)	38%
Presenting	132,225	102,175	30,050	44%
Theater (non-presenting)	53,601	43,888	9,713	56%
Fundraising	4,827	7,700	(2,873)	8%
Total Expense	**613,318**	**587,732**	**25,586**	47%
Net Operating Income (NOI)	**9,769**	**2,548**	**7,221**	122%

Balance Sheet	Dec 31, 2011	May 31, 2011	Jun 30, 2011	% change from May
ASSETS				
Current Assets				
Cash	83,049	59,246	27,594	-53%
Accounts Receivable, net				
Earned	3,426	15,274	17,116	12%
Unearned	92,700	168,758	173,184	82%
Total Accounts Receivable	96,126	120,303	190,300	25%
Advances & Prepaids	19,394	15,947	16,229	-18%
Undesignated Funds	134,687	35,058	35,065	-74%
Total Current Assets	333,256	223,784	269,188	-33%
Long-Term Designated	91,575	78,401	78,401	-14%
Endowment	652,382	688,899	688,899	6%
Fixed Assets, net	2,068,532	2,008,612	2,008,612	-3%
TOTAL ASSETS	**3,145,745**	**2,999,696**	**3,045,100**	-5%
LIABILITIES & NET ASSETS				
LIABILITIES				
Accounts Payable	106,898	59,706	59,706	-44%
Other Payables	29,985	54,314	54,314	81%
Accrued Expenses	1,164	1,376	1,376	18%
Deferred Revenue	107,372	94,211	94,211	-12%
Line of Credit	94,184	100,000	100,000	6%
TOTAL LIABILITIES	**339,603**	**309,607**	**309,607**	-9%
NET ASSETS	2,806,142	2,690,089	2,735,493	-4%
TOTAL LIABILITIES & NET ASSETS	**3,145,745**	**2,999,696**	**3,045,100**	-5%

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
September 20, 2011

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, and Councilmember Amy Walen.
Members Absent: Deputy Mayor Penny Sweet.

Deputy Mayor Sweet was absent/excused as she was on vacation.

3. SPECIAL STUDY SESSION

a. Central Houghton and Lakeview Neighborhood Plans

Joining Councilmembers for this discussion were City Manager Kurt Triplett, Houghton Community Council Chair Rick Whitney, Planning Commission Chair Jay Arnold, Director of Planning and Community Development Eric Shields, Deputy Director Paul Stewart, and Senior Planner Angela Ruggeri.

4. EXECUTIVE SESSION

a. To Discuss Labor Negotiations

Council announced that they were entering into Executive Session and would return to regular meeting at 7:30 p.m. City Attorney Robin Jenkinson was also in attendance.

5. HONORS AND PROCLAMATIONS

a. Eastside Month of Concern for the Hungry Proclamation

Teresa Andretti of Hopelink accepted the proclamation from Mayor McBride and Councilmember Marchione.

6. COMMUNICATIONS

a. Announcements

b. Items from the Audience

Norm Storme
Steve Roberts

Robert Pantley
Margaret Wiggins
Toby Nixon

c. Petitions

7. SPECIAL PRESENTATIONS

a. Metro Congestion Relief - King County Councilmember Jane Hague

b. KTUB Update From YMCA and Introduction of Paul Heric, KTUB Director

8. CONSENT CALENDAR

a. Approval of Minutes: September 6, 2011

b. Audit of Accounts:
Payroll $ 4,242,154.70
Bills $ 2,063,082.63
run #1034 check # 528589
run #1035 checks # 528619 - 528750
run #1036 checks # 528753 - 528864

c. General Correspondence

d. Claims

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

(1) 2011 Emergency Sewer Program - Authorization to Bid

Council approved the proposed beneficiary areas and authorized staff to advertise for contractor bids for the 2011 Emergency Sewer Program.

(2) Resolution R-4890, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE CITY OF KIRKLAND'S ALLOCATION FOR THE NORTH EAST KING COUNTY REGIONAL PUBLIC SAFETY COMMUNICATIONS AGENCY (NORCOM) BUDGET."

(3) Billy Creek Ravine Stabilization Project - Funding Request

Council authorized the use of $150,000 from the Surface Water Construction

Reserve as the City's contribution towards completing the Billy Creek Ravine Stabilization Project and authorized the City Manager to sign a Professional Services Agreement (PSA) with King County to allow County crews to perform the construction work associated with the Project.

(4) Ordinance O-4322 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE EXPENDITURE OF TRAFFIC AND PARK IMPACT FEES AND AMENDING KIRKLAND MUNICIPAL CODE CHAPTERS 27.04 AND 27.06."

Motion to approve the Consent Calendar.
Moved by Councilmember Dave Asher, seconded by Councilmember Doreen Marchione
Vote: Motion carried 6-0
Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Amy Walen, and Mayor Joan McBride.

9. PUBLIC HEARINGS

a. Resolution R-4891, Stating the City Council's Opposition to Initiative 1125 on the November 8, 2011, General Election Ballot

Mayor McBride described the parameters and opened the public hearing. Intergovernmental Relations Manager Lorrie McKay reviewed the potential impacts of the proposed intiative. Testimony was provided by Doug McDonald and Margaret Wiggins. No further testimony was offered and the Mayor closed the hearing.

(1) Initiative Measure 1125 Initiative Measure No. 1125 concerns state expenditures on transportation. This measure would prohibit the use of motor vehicle fund revenue and vehicle toll revenue for non-transportation purposes, and require that road and bridge tolls be set by the legislature and be project-specific. Should this measure be enacted into law?

Motion to approve Resolution R-4891, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 1125 ON THE NOVEMBER 8, 2011, GENERAL ELECTION BALLOT."
Moved by Councilmember Dave Asher, seconded by Councilmember Amy Walen
Vote: Motion carried 6-0
Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Amy Walen, and Mayor Joan McBride.

Council recessed for a short break.

b. Resolution R-4892, Approving and Adopting the Annual Update for the Six-Year Transportation and Street Construction and Improvement Program in Accordance with Section 19.08.051, Kirkland Municipal Code

Mayor McBride reviewed the scope and opened the public hearing. Interim Capital Projects Manager Dave Snider provided an overview of the proposed Transportation Improvement Program. Testimony was provided by Paul Deans. No further testimony was offered and the Mayor closed the hearing.

Motion to approve Resolution R-4892, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AND ADOPTING THE ANNUAL UPDATE FOR THE SIX-YEAR TRANSPORTATION AND STREET CONSTRUCTION AND IMPROVEMENT PROGRAM IN ACCORDANCE WITH SECTION 19.08.051, KIRKLAND MUNICIPAL CODE."

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 6-0
Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Amy Walen, and Mayor Joan McBride.

10. UNFINISHED BUSINESS

a. Liquor Control Board Profits and Potential Use of Funds

City Manager Kurt Triplett provided an overview of the issues for Council consideration and feedback.

Motion to Approve the staff recommendation to use the funds to reactivate the ProAct Unit, supplement some of the Fire Strategic Plan budget and continue the Emergency Preparedness Coordinator position through 2011.
Moved by Councilmember Dave Asher, seconded by Councilmember Doreen Marchione
Vote: Motion carried 6-0
Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Amy Walen, and Mayor Joan McBride.

11. NEW BUSINESS

a. Ordinance O-4323 and its Summary, Relating to Solid Waste Collection Rates and Amending Section 16.12.030 of the Kirkland Municipal Code

Public Works Director Ray Steiger presented information about the proposed rates and responded to Council questions and comment.

Motion to approve Ordinance O-4323 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SOLID WASTE COLLECTION RATES AND AMENDING SECTION 16.12.030 OF THE KIRKLAND MUNICIPAL CODE."
Moved by Councilmember Amy Walen, seconded by Councilmember Jessica Greenway
Vote: Motion carried 6-0
Yes: Councilmember Bob Sternoff, Councilmember Doreen Marchione, Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Amy Walen, and Mayor Joan McBride.

b. Northshore Utility District Franchise Agreement

Development and Environmental Services Manager Rob Jammerman provided a review of the issues regarding the franchise fee and request by the Northshore Utility District to renegotiate the franchise fee and agreeement. Council agreed to support the staff recommendation to offer a limited opening of the Franchise Agreement to add language that freezes any future franchise fee increase until the fee is equivalent to the City's utility tax rate, but not open the agreement to adjust the current franchise fee.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the Metropolitan Solid Waste Advisory Committee meeting; Market Neighborhood Association picnic; 9/11 Interfaith memorial service and recognition of Kirkland Unitarian Church Pastor Marian Stewart; Kirkland Concours d'Elegance; Dennyfest; 132nd Square Park project; St. Edwards State Park interpretive sign installation; University of Washington, through a grant in partnership with the Puget Sound Regional Council and Sound Transit, software demonstration on Growing Transit Communities; Cascade Water Alliance Public Affairs Committee meeting; Park Bond Funding Exploratory Committee meeting; Puget Sound Regional Council Transportation Policy Board meeting; Suburban Cities Public Issues Committee meeting; Request for information on Initiative 1183; Walkscore.com website designating Kirkland as the second most walkable city in the state; Finn Hill/Denny Creek Neighborhood organization meeting; Growth Management Planning Board joint meeting with Transportation Policy Board; KDOG Dog Park work party; Mayor's address to Leadership Eastside; and a Lake Washington Institute of Technology event.

b. City Manager

(1) Calendar Update

13. ITEMS FROM THE AUDIENCE

None.

14. ADJOURNMENT

The Kirkland City Council regular meeting of September 20, 2011 was adjourned at 10:22 p.m.

City Clerk

Mayor

Council Meeting: 10/04/2011
Agenda: Claims
Item #: 8 .d.

CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk

Date: September 22, 2011

Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION
It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS
This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.040).

BACKGROUND DISCUSSION
The City has received the following Claim(s) for Damages from:

(1) Gary L. Henderson
5511 105th Avenue NE
Kirkland, WA 98033

Amount: Unspecified Amount

Nature of Claim: Claimant states damage to vehicle is a result of debris from grounds keeping equipment.

Note: Names of claimants are no longer listed on the Agenda since names are listed in the memo.

CITY OF KIRKLAND
Human Resources Department
505 Market Street Suite B, Kirkland, WA 98033 425.587.3210
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Bill Kolden, Interim Human Resources Director

Date: September 21, 2011

Subject: Ratification of Police Guild Commissioned Staff Agreement 2010 -2013

RECOMMENDATION

Adopt the 2010-2013 Collective Bargaining Agreement between the City of Kirkland and Kirkland Police Guild Commissioned Staff.

BACKGROUND DICUSSION:

On September 2, 2011, after two years of negotiations, an attempt at a mediated agreement, and preparation for resolution through interest arbitration, City negotiators and Guild representatives reached tentative agreement on a successor agreement to the 2007-2009 collective bargaining agreement between the two parties. The Guild is currently conducting a ratification vote by its membership and the unofficial results indicate Guild approval. It is in both party's interests to avoid the costs and uncertainties involved in an interest arbitration settlement.

Some highlights of the agreement are:

- Four year agreement (January 1, 2010 – December 31, 2013)
- Wage rates from 2007-09 agreement to remain in effect through June 30, 2011
- Effective July 1, 2011, wage rates will increase by 1.2%
- Effective January 1, 2012, wage rates will increase by 2.5%
- Effective January 1, 2013 wage rates will increase by 100% of the June 2011 to June 2012 Seattle-Tacoma-Bremerton CPI
- Effective September 1, 2011, longevity incentives currently at 6% after 20 years of service will change to 7% for 20-24 years of service and 8% for 25 or more years
- Effective September 1, 2011 education incentives currently at 2% for a BA/BS and 3% for a Graduate Degree will increase to 2.5% for a BA/BS and 3.5% for a Graduate degree
- Officers assigned to ProAct will receive a 2% Specialty Pay incentive
- Guild members will receive an additional day of bereavement leave

Staff is pleased to recommend to City Council the ratification and adoption of this Agreement with the Kirkland Police Guild.

Attachment: 2010 – 2013 Agreement By and Between City of Kirkland and Kirkland Police Guild Commissioned Staff.

~~2007– 2009~~ 2010 – 2013
Agreement

By and Between

CITY OF KIRKLAND

and

KIRKLAND POLICE GUILD
COMMISSIONED STAFF

~~2007 – 2009~~ 2010 - 2013 Agreement
By and Between
City of Kirkland
and
Kirkland Police Officers' Guild
Commissioned Staff

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~~2007 – 2009~~ 2010 – 2013 Agreement
By and Between
City of Kirkland
and
Kirkland Police Officers' Guild
Commissioned Staff

PREAMBLE

THIS AGREEMENT is made by and between the CITY OF KIRKLAND, WASHINGTON, (hereinafter referred to as the "Employer"), and the Kirkland Police Officers Guild (hereinafter referred to as the "Guild").

The purpose of the Employer and the Guild in entering into this Agreement is to set forth their entire agreement with regard to wages, hours, and working conditions so as to promote uninterrupted public service, efficient operations, and harmonious relations, giving full recognition to the rights and responsibilities of the Employer and the Employees.

ARTICLE 1 – DEFINITIONS

As used herein, the following terms shall be defined as follows:

"Bargaining Unit" shall include all full-time commissioned Police Officers, Corporals, and Sergeants within the City of Kirkland Police Department.

"Employee" shall mean regular, full-time employees in the bargaining unit (as defined in Article 3 and Article 5) covered by this agreement.

"Employer" shall mean the City of Kirkland, Washington.

"Health Care Provider's Statement" shall mean a written statement from a professional health care provider certifying an illness or injury, the date an Employee is anticipated as able to return to full duty or a recommendation of temporary duty with reasonable accommodation, and the Employee's ability to perform the required duties.

"Immediate family" shall be defined as persons related by blood, marriage, or legal adoption in the degree of relationship of grandparent, parent, wife, husband, brother, sister, child, grandchild, domestic partner (as defined by Employer Policy), and other persons with the approval of the City Manager or designee.

"On-Call" status shall mean an employee who is assigned on-call status and has an individual duty to respond to duty.

"Special Assignment" is defined as those specific job assignments, requiring specialized training, knowledge, skill, or expertise, as identified in Article 7.4.

"Standby" shall mean an employee specifically approved by command staff to be ready reserve for a specific period of time and is on compensable time, prepared and available to be assigned for immediate service as needed.

"Temporary Assignment" is defined as any other assignment besides Special Assignment. This includes such services as School Resources Officer, CSU, Training Officer, and NRO.

ARTICLE 2 – RECOGNITION

2.1 RECOGNITION

The employer recognizes the Guild as the sole and exclusive bargaining representative for all commissioned employees below the rank of Lieutenant for the purpose of representation and collective bargaining with regard to matters pertaining to wages, hours, and conditions of employment.

2.2 NEW CLASSIFICATIONS

If new classifications are established by the Employer and added to the bargaining unit, if the duties of existing classifications are substantially changed, or if an employee is appointed to a position substantially different than the employee's classification, a proposed wage scale shall be assigned thereto, and the Employer shall forward the new or changed class and proposed wage to the Guild for review. The contract will then be subject to reopening for the sole purpose of negotiating a wage for the class, and only if so requested by the Guild. If the parties cannot agree to the pay range after negotiations and mediation, the matter shall be submitted to binding arbitration. The interest arbitrator shall establish a fair and equitable pay scale for the new or changed classification using interest arbitration statutory processes.

2.3 CONTRACT PROPOSALS

The Employer recognizes and agrees to discuss contract proposals with the members of the Guild's Executive Board or their designated representative(s) only. The Guild recognizes the City as the representative of the people of the City of Kirkland and agrees to negotiate only with the City through the negotiating agent or agents officially designated by the City Manager to act on its behalf.

The Guild will promptly notify the Human Resource Director and the Chief of Police in writing of their designated representative(s).

ARTICLE 3 – GUILD SECURITY

3.1 MEMBERSHIP

The Employer recognizes that members of the Kirkland Police Department may, at their discretion, become members of the Guild. The Guild accepts its responsibility to fairly represent all employees in the bargaining unit regardless of membership status.

3.1.1 All employees shall become members of the Guild within thirty (30) calendar days of their date of employment under this agreement or pay a service fee as provided below.

3.2 DUES DEDUCTION

The Employer, when authorized and directed by a member of the Guild in writing upon an authorization form provided by the employer to do so, shall deduct Guild dues from the wages of an employee.

3.2.1 Payroll Deduction – Upon written authorization from an employee within the bargaining unit, the Employer shall deduct from the wages of that employee the sum certified as assessments and monthly dues of the Guild and shall forward such sum to the Guild. Should any employee not have any monies due to them, or the amount of such monies is not sufficient to satisfy the assessments, no deduction shall be made for that employee for that month.

3.2.2 An authorization for payroll deduction may be canceled upon written notice to the Employer and the Guild before the 15th day of the month in which the cancellation is to become effective, subject to the provisions of this article.

3.2.3 The Guild shall indemnify, defend, and hold the Employer harmless against claims made and against any suit instituted against the Employer on account of any check-off of dues for the Guild. The Guild shall refund to the employer any amounts paid to it in error on account of the check-off provision upon presentation of proper evidence thereof.

3.2.4 Any regular employee in a classification represented by the bargaining unit, who elects to not join the Guild within 30 calendar days, shall complete an authorization form and have deducted from their pay by the Employer, as a condition of employment, a monthly service fee in the amount of monthly dues to the Guild. This service fee shall be segregated by the Guild and used on a pro-rata basis solely to defray the cost for its services in negotiating and administering this agreement. A service fee deduction for an employee may be made only if the accrued earnings of the employee are sufficient to cover the service fee after all other authorized payroll deductions for the employee have been made. The Guild

shall assume the liability for all check-off matters beyond the Employer responsibility to make deductions in accordance with this Article.

3.2.5 An employee who objects to membership in the Guild on the basis of religious tenets or teachings of a church or religious body of which such employee is a member shall inform the Employer and the Guild of the objection. The employee shall establish with the representatives of the Guild an arrangement for contributing to a non-religious charity an amount of money equivalent to regular Guild membership dues.

3.3 BARGAINING UNIT ROSTER

The Employer shall provide the Guild with a roster of employees covered by this Agreement on a monthly basis.

The Guild agrees to supply both the Chief and Human Resources with a current list of officers. The Employer will recognize the officers as soon as the list is received, in writing, by the Department and Human Resources.

3.4 NONDISCRIMINATION – GUILD ACTIVITY

Neither party shall discriminate against any employee or applicant for employment because of membership in or non-membership in or activity on behalf of the Guild.

ARTICLE 4 – GUILD/EMPLOYER RELATIONS

4.1 GUILD ACCESS

The Guild's authorized staff representatives shall have access to the Employer's premises where employees covered by this Agreement are working for the purpose of investigating grievances and contract compliance, after notifying the Employer. Access for other purposes shall not be unreasonably denied by the Employer. Such visits shall not interfere with or disturb employees in the performance of their work during working hours.

4.2 FACILITY USE

Guild meetings may be scheduled and held on City premises. The Chief's approval pursuant to this Section shall not be unreasonably withheld.

4.3 STEWARDS

The Executive Board of the Guild, or other designee, represents the members as stewards.

4.4 ORIENTATION

During the new employee orientation process, the Employer will notify the employee of the requirements of Article 3.1 and Guild contact information.

4.5 BULLETIN BOARDS

The City shall permit the reasonable and lawful use of bulletin boards by the Guild for the posting of notices relating to official Guild business.

4.6 CONTRACT DISTRIBUTION

The Guild will provide access to a copy of this Agreement to each new and current employee in the unit.

4.7 NEGOTIATIONS RELEASE TIME

The Employer shall endeavor to allow a minimum of three (3) members of the Guild's negotiation committee to attend negotiation sessions during on-duty time, provided however, that operational necessities shall remain the priority and not more than two of the on-duty members shall be from any single division or workgroup, without prior authorization of the Chief or designee. Such members shall be designated by the Guild at least one (1) week in advance, where possible, and may include individuals assigned to other than day shift if the Employer determines that staffing on that shift is adequate, without the necessity of overtime (such individuals shall be considered to be transferred to day shift for the day on which the negotiation session is held).

4.8 GRIEVANCE RELEASE TIME

Prior to any proposed investigation of a grievance requiring any substantial use of on-duty time, stewards or officers shall provide notice to the Chief or designee.

4.9 GUILD BUSINESS

The Chief or designee shall endeavor to allow Guild Officials time off while conducting official "duty to represent" guild business on behalf of employees in the bargaining unit, including grievance resolution and arbitration, provided that:

4.9.1 They notify the Employer at least forty-eight (48) hours prior to the time off, unless such notice is not reasonably possible;

4.9.2 The Employer is able to properly staff the employees' job duties during the time off; and

4.9.3 The wage cost to the Employer is no greater than the cost that would have been incurred had the Guild Official not taken time off (i.e., no overtime expenditures).

ARTICLE 5 – EMPLOYMENT

5.1 PROBATIONARY PERIODS

New Employee Probationary Period

5.1.1 Probationary period for new officers will be a total of seventeen (17) months from the date of hire.

5.1.1.1 Typically, the seventeen (17) months from the date of hire is comprised of a new Officer attending the Basic Law Enforcement Academy (BLEA) for five (5) months and, upon completion, the Officer would remain in probationary status for a twelve (12) month period, in order to allow sufficient time to evaluate the new Officer.

5.1.1.2 Where an unavoidable delay occurs in securing an Academy slot for a newly hired Officer, the probationary period for that Officer shall be extended by the length of that delay, up to 90 calendar days. Should that delay be anticipated to go or in fact goes beyond 90 calendar days from the date of hire, notice to the Guild shall be provided and expeditious bargaining of the matter will occur, upon request.

5.1.2 Lateral Candidates, who do not attend the 720 hour Academy, will serve a probationary period of twelve (12) months from date of hire.

5.2 TYPES OF EMPLOYMENT

The employment positions of this bargaining unit are covered by Civil Service regulations. Regular position appointments are described therein. The establishment and appointment to other types of employment would require agreement by the Employer, Guild and Civil Service Commission.

5.3 CONTRACTORS

Not applicable to this unit.

5.4 STUDENTS/INTERNS/VOLUNTEERS

Student, volunteers and Internship programs may be created by the Employer provided such programs do not involve bargaining unit work. In the event the Employer seeks to have volunteers conduct bargaining unit work, it will provide notice to the Guild and negotiate any such change.

ARTICLE 6 – HOURS OF WORK AND OVERTIME

6.1 WORKDAY/WORKWEEK

Hours of Duty:

~~6.1.1 Patrol Officers shall work four (4) consecutive twelve (12) hour shifts with four (4) consecutive days off provided that shift start times may be staggered by a maximum of one (1) hour to meet operational needs, subject to one (1) week notice.~~

6.1.1 Patrol Officers shall work four (4) consecutive twelve (12) hour shifts with four (4) consecutive days off. There shall be 0600 to 1800 and 1800 to 0600 early shifts and 0800 to 2000 and 2000 to 0800 late shifts. Shift start times may

be shifted within these starting times (0600 to 0800 hours and 1800 to 2000 hours) and additionally may be staggered by a maximum of one (1) hour outside these starting times to meet temporary operational needs for a period of not more than thirty (30) days, subject to one (1) week notice.

6.1.2 For the purpose of accomplishing a transfer, transferring recruits in the ~~FTO~~ PTO program or long-term transfers, Patrol Officers working a regularly scheduled 12 hour shift shall be entitled to one day off for every scheduled day worked. Long-term transfers will be defined as six months or more.

6.1.3 Traffic Officers shall work four (4) consecutive ten (10) hour shifts with three (3) consecutive days off. The Traffic Officer duties may be adjusted to meet operational needs within their normal shift time. The Traffic Officer start times may be adjusted by four (4) hours (earlier or later) which cannot affect their days off.

6.1.4 Detectives shall work four (4) consecutive ten (10) hour shifts with three (3) consecutive days off. ~~Family Violence Detectives will be assigned to five (5) consecutive eight (8) hour shifts.~~ The Detective Sergeant position will be four (4) consecutive ten (10) hour shifts with three (3) consecutive days off. Corporals or Senior Corporals shall work staggered shifts.

The schedule of four (4) consecutive ten (10) hour shifts with three (3) consecutive days off may only be changed for training (other than in-service) or conference of more than one workweek in duration. Changes for other purposes are subject to the provision of Article 6.1.7.

6.1.5 The schedule for the ~~Community Service Unit (CSU)~~ School Resource Officer (SRO) shall be five (5) consecutive days per week, eight (8) hours per day, with not less than two (2) consecutive days off. The total hours worked shall not exceed forty (40) hours unless expressly pre-approved by the Community Service Unit Supervisor or Command Staff. The starting and ending time may be ~~adjusted~~ staggered by a maximum of four (4) hours to meet operational needs ~~subject to the notice provision in Section 6.1.7~~ or if requested by the employee and approved by the Supervisor. Employees in the Community Service Unit may be scheduled to work with other divisions in the event of operational or staffing needs. Employee Volunteers will be assigned to the CSU unit, provided the employer retains the right to assign employees where no volunteers are forthcoming, provided further that if a non-volunteer is utilized the normal rules from this article concerning schedule changes and overtime shall apply.

The Neighborhood Resource Officer (NRO) and Community Service Unit (CSU) Sergeant shall work either a four (4) days per week, ten (10) hours a day work week, or a five (5) days per week, eight (8) hours per day work week; with the standard work schedule being 4-10's with three consecutive days off.

6.1.6 The working hours for Traffic and Detectives shall be equivalent to 40 hours a week or an annualized basis of 2080 hours. The working hours for Patrol shall be equivalent to 48 hours a work period on an annualized basis of 2190 hours, and all briefing and other preparatory time shall be included in the regular work shift.

6.1.7 Employees shall be provided at least fourteen (14) calendar days notice prior to a change in their regular shift~~.~~, unless mutually agreed to waive by the employee, Guild and Employer. For purposes of complying with the Article 7(k) of Fair Labor Standards Act, the Patrol Division work period shall be eight (8) days and the Detective Division, Community Services Unit and Traffic Unit seven (7) days (Monday through Sunday).

6.1.8 Minimum Staffing for leave time and overtime considerations can be scheduled down to 1 (one) Sgt. and 8 (eight) Officers (includes Corporals) for each squad for a total of 9 (nine) patrol staff on at all times, giving consideration to operational necessity and having utilized backfilling as necessary.

6.1.~~8~~ 9 The Pro Act Officers will work a 4/10 schedule, with ten (10) consecutive hours per workday. The parties agree that the weekly work schedule will be flexible, in order to address crime trend and assignments in a timely manner and not bound by Article 6.1.7. Provided however, there will not be less than two (2) consecutive days off each work week, without resulting in overtime.
The Employer agrees that it is not the intent to use this flexibility to circumvent overtime, but rather to meet the requirement to respond to crime trends as they are identified. Despite this flexibility, daily shift adjustments as to hours between shifts for Pro Act Officers will be consistent with Article 6.1.3 and, if less, it shall be treated as a Call-back, and paid overtime per Article 10.2. The parties agree to meet and confer to resolution any issues regarding this unit.

6.1.~~9~~ 10 The schedule for newly created assignments, and other assignments not described above, shall be established by the City, notice provided to the Guild, and bargained upon request.

6.2 POWER SHIFTS

In administering hours of duty, the Employer will maintain existing shift arrangements except as follows:

6.2.1 The City may add a “power shift” or other special shift arrangement to include such hours as the Chief of Police directs; including shifts consisting of 8, 10, or 12 hours.

6.2.2 Such “power shift” or other special shift arrangement shall be staffed initially by (employee) volunteers.

6.2.3 If a sufficient number of qualified (employee) volunteers fail to come forward, shifts will be staffed by the Chief of Police using criteria that meets the reasonable operating needs of the employer, taking into consideration the seniority of affected employees where practical.

Power shift assignments will be for a minimum of twelve (12) months and may be extended with the concurrence of the assigned officer to meet the operational needs of the department. Officers will not be required to complete more than one power shift assignment in any forty-eight (48) month period.

6.2.4 Additionally, the Chief of Police may temporarily adjust the existing shifts if personnel shortages or an unanticipated event is deemed to hamper the effectiveness of the police department. Once the department is re-staffed or the event is over, the department will return to the existing shifts.

6.3 REST/MEAL BREAKS

For employees on eight (8) and ten (10) hour shifts, a workday shall include at least a thirty (30) minute lunch break. For employees on twelve (12) hour shifts, a workday shall include at least two (2) thirty (30) minute lunch breaks.

6.4 OVERTIME

All work, which has been specifically pre-approved by supervisory personnel, performed in excess of the normal work day or on a day off shall constitute overtime and shall be paid for at one and one-half times the employee's straight time hourly rate, unless such work is caused by change of shift, as set forth in Article 6.1 above. For officers working either eight (8) or ten (10) hour shifts, the hourly rate shall be determined by dividing the annual straight time hourly rate by 2080. For officers working twelve (12) hour shifts, the hourly rate shall be determined by dividing the annual straight time hourly rate, by 2190 hours. To the basic hourly rates, certain additional payments (per the FLSA) are included to calculate an employee's regular rate for overtime purposes. All overtime shall be compensated for in increments of fifteen (15) minutes with the major portion of fifteen (15) minutes being paid as fifteen (15) minutes.

<u>Overtime – Minimum Call-Back, Court Appearances, and Breathalyzer Hearings</u>

In the event that overtime which has been specifically pre-approved by supervisory personnel is not an extension at the beginning or end of a normal shift, the employee shall be paid at the rate of one and one-half times his regular hourly rate commencing at the time work is actually being performed or as is otherwise required by the FLSA, with a minimum of three hours. Court hearings, as well as breathalyzer hearings will be considered, upon notification, as specifically pre-approved by supervisory personnel. It is mandatory for an employee to respond to work if so directed by supervisory personnel.

6.5 COMPENSATORY TIME

6.5.1 Generally, overtime shall be paid rather than compensatory time granted. Overtime shall be compensated or compensatory time awarded at the rate of one and one-half (1½) times the employee's regular rate of pay or in the case of Call-back a minimum of three (3) hours of overtime or compensatory time shall be granted. Compensatory time shall be awarded by mutual agreement between the employee and the supervisor at the time of authorizing the overtime.

Should an employee be ordered / "mandatoried" to work overtime, the employee may make an election within the pay period for either compensatory time to be awarded or for the overtime to be paid.

An employee may only accrue compensatory time up to a maximum balance of 60 hours.

6.5.2 Compensatory time, accrued in lieu of cash compensation for overtime hours worked, shall be paid out on an annual basis, on the first pay day following November 1st, for all hours earned through October 31st.

ARTICLE 7 – EMPLOYMENT PRACTICES

7.1 NONDISCRIMINATION

The Guild and the Employer agree to provide equal opportunity as to the provisions of this Agreement to all their members and employees. Neither the Employer nor the Guild shall discriminate against any person on the basis of such person's race, sex, marital status, color, creed or religion, national origin, age, veteran status, sexual orientation or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification.

Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

7.2 JOB POSTING

When any position becomes vacant, the Employer will make every reasonable effort to fill it as soon as possible.

7.3 PROMOTIONS

Corporal/Senior Corporal Classification:
The following are the requirements to be eligible for promotions within the bargaining unit:

7.3.1 To be eligible for promotion to Corporal candidate shall have a minimum of three (3) years full time police experience as a commissioned police officer with two (2) years of service in the City of Kirkland.

7.3.2 To be eligible for a Sr. Corporal classification, the candidate shall have ~~four (4)~~ three (3) years of service in grade as a Corporal in Kirkland.

Sergeant:

7.3.3 To be eligible for promotion to Sergeant, candidate shall have a minimum of five (5) years full time experience as a commissioned police officer with four (4) years of service in Kirkland.

7.3.4 Candidates for promotional vacancies within the Guild shall come from an adequately sized pool of eligible candidates from the bargaining unit. An "adequately sized pool" shall be defined as two candidates who meet the qualifications as defined by Section 7.3.1 and 7.3.3

7.3.5 During the term of the agreement management will maintain a ~~combined~~ minimum total of twelve (12) Corporal and Senior Corporals.

7.4 SPECIAL ASSIGNMENTS

7.4.1 Special Assignment is defined as a specific job assignment, requiring specialized training, knowledge, skill, or expertise, performed by employee with the exception of sergeant and corporal other than those who are assigned to designated patrol shifts performing general patrol functions. These include Detective, Canine Officer, Traffic, ProAct and PTO ~~and Field Training Officer~~.

All other assignments are considered Temporary Assignments. These include assignments such as School Resources Officer, CSU, Training Officer and NRO.

7.4.2 Employees in a Special or Temporary assignment shall remain for three (3) years unless the employee's job performance does not meet requirements or the employee requests a transfer or a Special or Temporary assignment position is eliminated. Employees completing their three (3) year Special or Temporary assignment may be considered for additional one (1) year extensions based on their job performance and the operational needs of the department. A notification of a Special or Temporary assignment opening shall include a minimum time duration for the position. Employees selected for Special or Temporary Assignment positions will be subject to the department rotation policy without additional incentive pay, unless specifically bargained during future contract negotiations. Rotation or removal for non-disciplinary reasons from a Special or Temporary Assignment position is not subject to the grievance procedure.

Additionally, the Detective Unit shall include long term "anchor" position(s). Such positions as authorized shall be for a period of five (5) years, with potential extensions as above. To be eligible for such position, an employee must have served or be serving a tour with the Employer as a detective, having completed a period of at least three (3) consecutive years and having served in good standing.

7.4.3 Appointment to a Special or Temporary Assignment position will be based on a combination of any or all of the following: résumé; written and/or oral examinations; past work performance. Any Special or Temporary Assignment eligibility list shall not exceed ~~six (6)~~ twelve (12) months.

7.4.4 In the event a non-voluntary assignment is made to a Special or Temporary Assignment position in order to meet operational needs, the assignment will be for a maximum of twelve (12) months and may be extended with the concurrence of the assigned officer.

7.4.5 Police management will make the assignments and provide ~~30 days notice~~ fourteen (14) calendar days notice except in the cases of emergencies and promotions.

7.5 PERSONNEL FILES

Personnel Files – The City Human Resources Division will retain the permanent personnel file. The Police Department shall maintain only one working personnel file for each employee.

Supervisory notes - This does not preclude a supervisor from maintaining notes regarding an employee's performance for purposes of formulating evaluation and performance appraisal or the department from maintaining separate computerized records relating to training, promotion, assignment, or similar data.

Information related to medical, psychological, background check information and grievance records shall be maintained in separate files.

Employees shall have access to their personnel file with reasonable frequency. Upon request, access shall be provided within a maximum of four (4) working days. Conditions of hiring, termination, change in status, shift, evaluations, commendations and disciplinary actions shall be in writing with a copy to the Employee prior to placement in their personnel file.

Upon receiving a request for all or part of a personnel file from any third party, the affected employee shall be notified of the request, and the information shall not be released for a period of three (3) business days from the time of said notification, except as part of an investigation being conducted by another law enforcement agency, the disclosure of which is necessary for effective law enforcement. Upon service of a court order or subpoena properly recorded and signed by a judge or magistrate demanding immediate release or as otherwise required by law, the employee shall be notified of the request and release will be made as required by law or as above. The City Attorney will advise the department in all matters pertaining to the release of information contained in a personnel file.

Employees shall have the right to provide a written response to any written evaluations or disciplinary actions to be included in the personnel file, which, together with the action, will be retained with the action in the personnel file.

Personnel Records Retention:

Records of disciplinary action may be retained in an employee's personnel file for a period of not more than five (5) years. After five years has elapsed, the employee may request in writing the removal of such records which shall be granted unless the employee's personnel record indicates a pattern of similar types of discipline, in which case, all such records may be retained until an additional period of two (2) years has elapsed, during which there has been no further disciplinary action for the same or similar behavior. After two years has elapsed, the employee may request in writing removal of the record of disciplinary action.

Records retained in an employee's department personnel file longer than provided in this section shall not be admissible in any proceedings concerning disciplinary action, provided that the parties retain the right to introduce evidence regarding prior discipline of other employees for the purpose of establishing the consistency of non-consistency of discipline imposed in a case subject to a disciplinary appeal.

7.6 EVALUATIONS

The purpose of evaluation is to help an employee to be successful in performance and to understand the standards and goals of their position and their department. The evaluation will assess and focus on the employee's accomplishment of their job functions and the goals and standards of the position. Where the employee does not meet the above, a plan for correction, training or support should be developed with the employee.

Evaluation may occur in two forms:

7.6.1 All regular employees should be formally evaluated in writing by their immediate supervisor and/or department head or designee during the probationary or trial service period and at least annually (at date of hire or a common date) thereafter.

7.6.2 Additionally, evaluation of job performance may occur at any time and on an ongoing basis. Evaluation may occur in various ways and may include coaching, counseling or written assessment.

The evaluation process shall also include a review of the current job description.

Evaluation shall not, by itself, constitute disciplinary action – disciplinary action must be specifically identified as such, in writing, consistent with Article 7.8.

Employees will be given a copy of the evaluation. Employees will be required to sign the evaluation, acknowledging its receipt. Evaluations are not grievable, however, employees may elect to provide a written response to the evaluation, which will be retained with the evaluation in the employee's personnel file.

7.7 BILL OF RIGHTS

All employees within the bargaining unit shall be entitled to the protection of what shall hereafter be termed as the "Police Officers Bill of Rights." The wide-ranging powers and duties given to the department and its members involve them in all manner of contacts and relationships with the public. Of these contacts come many questions concerning the actions of members of the force. These questions often require an immediate investigation by superior officers designated by the Chief of Police. In an effort to ensure that these investigations are conducted in a manner, which is conducive to good order and discipline, the following guidelines are promulgated:

7.7.1 Employees shall be informed in writing, of the nature of the investigation, the right to request Guild representation, and whether they are a witness or a ~~suspect~~ subject of the investigation, before any interview of the employee commences. In investigations other than criminal, this will include the name, address, and other information necessary to reasonably apprise them of the allegations of such complaint.

An employee who is identified as a ~~suspect~~ subject of the investigation, shall be advised in writing a minimum of forty-eight (48) hours prior to the time of the interview, if the interviewer either knows or reasonably should know that the questioning concerns a matter that could lead to criminal charges or misconduct that could be grounds for termination. Employees who are given a forty-eight (48) hour notification may waive that delay by signing a written waiver form, provided that the employee either has Guild representation or waives the right to such representation in writing.

7.7.2 Any interview of an employee shall be at a reasonable hour, preferably when the employee is on duty unless the exigencies of the investigation dictate otherwise. Where practicable, interviews shall be scheduled for the daytime.

7.7.3 The interview, which shall not violate the employee's constitutional rights, shall take place at the Kirkland Police Station facility, except where impractical. The employee shall be afforded the opportunity and facilities to contact and consult privately with an attorney of the employee's own choosing and/or a representative of the Guild. Said attorney and/or representative of the Guild may be present during the interview but shall not participate in the interview except to counsel the employee, provided that the Guild representative or attorney may participate to the extent permitted by law.

7.7.4 The questioning shall not be overly long, and the employee shall be entitled to such reasonable intermissions as they shall request for personal necessities, meals, telephone calls, and rest periods.

7.7.5 The employee shall not be subjected to any offensive language, nor shall ~~he~~ they be threatened with dismissal, transfer, or other disciplinary punishment as a guise to attempt to obtain ~~his~~ their resignation, nor shall they be intimidated in any other manner. No promises or rewards shall be made as an inducement to answer questions.

7.7.6 It shall be unlawful for the City to require any employee covered by this agreement to take or be subjected to any polygraph or any polygraph type of examination as the condition of continued or continuous employment or to avoid any threatened disciplinary action.

7.7.7 At the employee's request, the interview shall be recorded on tape. One copy shall be provided to the Guild representative or employee. There shall be no "off-the record" questions. Within ~~three (3)~~ seven (7) calendar days of the completion of the investigation, and no later than three (3) calendar days prior to a pre-disciplinary hearing, the employee shall be advised of the results of the investigation and the recommended disposition and shall be furnished a complete copy of the investigation report, provided that the Employer is not required to release statements made by persons requesting confidentiality where the request was initiated by such persons and provided further that such confidential statements may not be relied upon to form the basis of discipline. All interviews shall be limited in scope to activities, circumstances, events, conduct or actions which pertain to the incident which is the subject of the investigation. Nothing in this section shall prohibit the Employer from questioning the employee about information which is developed during the course of the interview.

7.7.8 Use of Deadly Force Situations: When an employee, whether on or off duty, uses deadly force which results in the injury or death of a person, or discharges a firearm in which no injury occurs, the employee shall not be required to make a written or recorded statement for twenty-four (24) hours after the incident except that immediately following the incident the employee shall verbally report to a superior a brief summary of the incident and any information necessary to secure evidence, identify witnesses, or apprehend suspects. The affected employee may waive the requirement to wait twenty-four (24) hours. The department and the Guild shall mutually agree on designated peer support counselors.

7.7.9 Medical or Psychological Examinations: When there is ~~probable cause~~ reasonable suspicion to believe that an employee is medically or psychologically unfit to perform his/her duties, the employer may require the employee to undergo a medical or psychological examination in accordance with current standards as

may be established by the Washington Association of Sheriffs and Police Chiefs, the International Association of Chiefs of Police, the Americans with Disabilities Act, and other applicable State or Federal laws. Consultations with the City's Employee Assistance Program are not considered medical or psychological examinations.

7.8 DISCIPLINE/CORRECTIVE ACTION

No employee shall, by reason of his employment, be deprived of any rights or freedoms, which are afforded to other citizens of the United States by the State and Federal Constitutions and Washington law.

No employee shall be compelled by the City to give self-incriminating information, either verbal or written, during any criminal investigation when such investigation involves allegations against the employee nor in any internal investigation which could lead to a criminal charge against the employee. Any refusal by an employee to give self-incriminating information under these conditions will not result in the employee's termination, suspension, reprimand, transfer, or any other form of disciplinary action by the City.

The Employer agrees to act in good faith in the discipline, dismissal or demotion of any regular employee and any such discipline, dismissal or demotion shall be made only for just cause.

The parties recognize that just cause requires progressive discipline. Progressive discipline may include:

- oral reprimands, which will be documented;
- written reprimands;
- disciplinary transfer;
- suspension with or without pay;
- demotion; or
- discharge.

The intent of progressive discipline is to assist the employee with performance improvement or to correct misconduct. Progressive discipline shall not apply where the offense requires more serious discipline in the first instance. Both the sequencing and the steps of progressive discipline are determined on a case-by-case basis, given the nature of the problem.

All disciplinary actions shall be clearly identified as such in writing. The employee will be requested to sign the disciplinary action. The employee's signature thereon shall not be construed as admission of guilt or concurrence with the discipline. Employees shall have the right to provide a written response to any written disciplinary action to be included in the personnel file, which, together with the action, will be retained in the personnel file, for so long as the disciplinary action is retained.

A copy of all disciplinary notices shall be provided to the employee before such material is placed in their personnel file. Employees disciplined or discharged shall be entitled to utilize the grievance procedure. If, as a result of the grievance procedure utilization, just cause is not shown, personnel records shall be cleared of reference to the incident, which gave rise to the grievance.

The Employer will notify the Guild in writing within three (3) working days after any notice of discharge. The failure to provide such notice shall not affect such discharge but will extend the period within which the affected employee may file a grievance.

The Employer recognizes the right of an employee who reasonably believes that an investigatory interview with a supervisor may result in discipline to request the presence of a Guild representative at such an interview. Upon request, the employee shall be afforded a Guild representative. The Employer will delay the interview for a reasonable period of time in order to allow a Guild representative an opportunity to attend. If a Guild representative is not available or delay is not reasonable, the employee may request the presence of a bargaining unit witness. (Weingarten rights)

Employees shall also have a right to a notice and a determination meeting prior to any disciplinary action (except oral reprimands). The Employer must provide a notice and statement in writing to the employee identifying the performance violations or misconduct alleged, a copy of the investigative file as per Article 7.7.7, and a finding of fact and the reasons for the proposed action. The employee shall be given an opportunity to respond to the charges in a meeting with the Employer, and shall have the right to Guild representation during that meeting, upon request. (Loudermill rights)

The Employer shall endeavor to correct employee errors or misjudgments in private, with appropriate Guild representation if requested by the employee.

Discipline shall be subject to the grievance procedure in this Agreement as to whether or not such action as to any post-probationary employee was for just cause.

ARTICLE 8 – SENIORITY

8.1 DEFINITIONS

Seniority shall be established upon appointment to a regular full-time budgeted position within the bargaining unit.

Bargaining Unit Seniority: the total length of continuous calendar-based service with the Employer and in the bargaining unit.

Employer Seniority: the total length of continuous calendar-based service with the Employer.

Classification Seniority: the total length of continuous calendar-based service within a position and employment type represented by the bargaining unit. Classification seniority shall include all time at a higher ranked classification, for which the employee does not have continuing job rights.

Consistent with Article 14.5, the Employer shall adjust the employee's anniversary date to reflect any period of unpaid leave of thirty (30) continuous days or more. Seniority shall continue to accrue and the employee's anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA, L&I or military leave adjusted for periods of up to six (6) months (or as otherwise required by USERRA).

8.2 APPLICATION OF SENIORITY

In the event of reassignment, transfer, layoff, or recall, seniority shall be the determining factor where employees are equally qualified to do the job.

Seniority shall be applied in the following manner:

8.2.1 Postings / promotions

In regard to job postings, promotion and reassignment, "qualifications" and/or "ability" will be the primary consideration, with seniority determinative where employees are equally qualified. Qualifications will include the minimum qualifications of education, training and experience as set forth in the job description, as well as the job performance, ability, employment record and contribution to the needs of the department. Specialty positions shall be filled in accordance with Article 7.4.3.

8.2.2 Layoffs

Total classification seniority shall determine who is to be laid off within the selected classification (affected group). The least senior regular employee(s) within the classification shall be the affected employee(s). In the event of two employees having the same classification seniority, bargaining unit seniority shall be determinative. In the event of two employees having the same bargaining unit seniority, Employer seniority shall be determinative.

8.2.3 Bumping

An employee shall be allowed to bump less senior employees (by bargaining unit seniority) within their department in lower classifications, in accordance with Article 8.13.2, provided that the employee is "competent" and has the ability to adequately perform the essential functions of the job assignment.

8.2.4 Recall

Seniority shall be determinative in the identification of which employee is to be recalled, when there is more than one on the recall list who is qualified and/or have previously performed a position.

8.3 PROBATIONARY PERIOD

Probationary period for new officers will be a total of seventeen (17) months from the date of hire, consistent with Article 5.1.

Lateral Candidates, who do not attend the 720 hour Academy, will serve a probationary period of twelve (12) months from date of hire.

8.4 LOSS OF SENIORITY

An employee will lose seniority rights by and/or upon:

8.4.1 Resignation.

8.4.2 Discharge.

8.4.3 Retirement.

8.4.4 Layoff / Recall list of more than fourteen (14) consecutive months, consistent with Article 8.15.

8.4.5 Medical Reinstatement / Recall list of more than twenty-four (24) consecutive months, consistent with Article 8.15.

8.4.6 Failure to respond to an offer of recall to former or comparable employment.

Employees who are re-employed following the loss of their seniority, shall be deemed a newly-hired employee for all purposes under this Agreement, except if an employee is recalled consistent with Article 8.15 and the time-lines therein, they shall regain the seniority that they had as of their last date of employment.

8.5 LAYOFFS

A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions within the department or within a job classification covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the department.

8.6 NOTICE

The Guild shall be notified of all proposed layoffs and of positions to which laid off employees may be eligible to bump through the attachment of a current seniority list.

Employees affected / being laid off shall be given written notice of such layoff thirty (30) calendar days prior to the layoff if possible. In no event shall written notice of layoff be less than fourteen (14) calendar days. If the Employer does not provide fourteen (14) calendar days written notice, the employer shall compensate the employee at his or her

normal rate of pay for the time between the last day of work and fourteen (14) calendar from the date the employee receives the notice of layoff, in addition to any other compensation due the employee.

The employee shall inform the Employer within five (5) working days of the receipt of the notice of layoff of their intention to exercise bumping rights. When all bumping rights have been acted upon, or when someone has chosen not to act on their bumping right, the employee least senior or the employee choosing not to bump shall be the person laid off. Only one thirty (30) day notice of layoff is required, irrespective of the number of bumps.

An employee desiring to exercise bumping rights must do so by delivering written notice to the Employer within five (5) working days of receipt of notice of layoff. The written notice must state the proposed position to be bumped.

8.7 MEETING WITH GUILD

The Guild shall also be notified in writing of any reduction in hours proposed by the Employer, including the purpose, scope, and duration of the proposed reduction.

Upon the Guild's request, the Employer and the Guild shall meet promptly during the first two (2) weeks of the notice period identified in Article 8.6 to discuss the reasons and the time-lines for the layoff and to review any suggestions concerning possible alternatives to layoff. Guild concerns shall be considered by the Employer prior to implementation of any reduction in hours. This procedure shall not preclude the Employer from providing notice to employees or requesting volunteers to take leaves of absence without pay, provided the Employer notifies the Guild of the proposed request.

8.8 AFFECTED GROUP

The following procedure shall apply to any layoff:

8.8.1 Affected employees

The Employer shall first determine by job classification the number of employees or FTEs to be affected by the layoff. The employee(s) holding such FTEs, which are subject to layoff, shall be the "affected employee(s)."

The least senior employee within the affected job classification shall be selected for layoff, consistent with Article 8.2.2.

In cases where seniority within a job classification is equal, bargaining unit seniority will be the determining factor. In the event this is also equal, Employer seniority will control. If all of the seniorities are equal, then Management shall make the final decision based on performance and job skills.

8.8.2 Volunteers

Simultaneous with implementing the provisions of the layoff procedure, the Employer may first seek, by a five (5) working day posting process, volunteers

for layoff or voluntary resignation from among those employees who work within the same job classification as the affected employees. If there are more volunteers than affected employees, volunteers will be chosen by bargaining unit seniority. Employees who volunteer for layoff may opt for recall rights as described in this article at the time of layoff.

If there are no or insufficient volunteers within the affected job classification, the remaining affected employees who have received notice must choose promptly (within five (5) full working days of receipt of the Notice) among the layoff options set forth in Article 8.13.

8.8.3 Probationary Employees
If the number of volunteers is not sufficient to meet the announced number of necessary layoffs, and if the affected employee is an initial probationary employee, then that employee shall be laid off and is ineligible to select among layoff options.

8.9 VACANT POSITIONS
Positions will be filled in accordance with Article 8.2 and other sections of this Article.

Within the bargaining unit and the department, affected employees and employees on the recall list shall be given first opportunity for vacant bargaining unit comparable positions prior to outside hiring by the Employer, consistent with Article 8.13.1.

8.10 SENIORITY LIST
The Employer shall update the seniority list and provide it to the Guild monthly, consistent with Article 3.3. If a layoff is announced, a current ranked seniority list including job classifications, names, job locations, and FTE or hours per week shall be provided to the Guild and posted in the affected department.

8.11 ORDER OF LAYOFF
The least senior employee (by classification seniority) within the affected job classification shall be selected for layoff. No regular employee shall be laid off while another employee in the same classification within the department is employed on a probationary basis.

8.12 COMPARABLE EMPLOYMENT
For purposes of this Article, “comparable employment,” “comparable position” or vacancy shall be defined to include a position which has the same salary pay range and the educational and experience qualifications.

8.13 LAYOFF OPTIONS
Affected employees who have completed their probationary period shall have the following options:

8.13.1 Assume a Vacant Position

On a bargaining unit seniority basis, to assume a vacant position of equal or lesser rank, in accordance with Article 7.4.3.

8.13.2 Bump
Consistent with Article 8.2.3, laid off employees, including bumped employees, shall be allowed to bump less senior employees (by bargaining unit seniority) within their department in lower classifications.

An employee who has bumped shall move to the highest step of the new range that does not exceed their current salary.

If there is no employee in the next lower classification who is less senior than the person scheduled for layoff, that person may look progressively to the next lower classification for such bumping rights.

The employee who is bumped by the affected employee shall have the same rights under this Article.

8.13.3 Recall
If the affected employee elects not to take a vacant position or elects not to bump, then that employee will be placed on the recall list and will be eligible for recall under Article 8.15.

Nothing contained in this layoff section shall be construed to require the Employer to modify its position and classification structure in order to accommodate bumping or other re-employment rights.

Employees bumping to another position shall retain their old anniversary date for purposes of step increases. Persons recalled to the same salary range shall be placed in their former step and time in step.

8.14 REDUCTION HOURS/FTE
An employee will not be subject to an involuntary reduction in their FTE (i.e. less than full-time) absent notice and negotiation of the matter with the Guild. If the reduction results in hours less than their budgeted FTE, it will be considered a layoff and the affected employee shall have either the right to bump or go onto the recall list.

8.15 RECALL
Any reference to recall rights and recall lists pertains to both those employees who are laid off or on medical reinstatement, as below:

An employee who has been laid off shall be entitled to recall rights for a period of fourteen (14) months from the effective date of their layoff.

An employee who is placed on the medical reinstatement list shall be entitled to recall rights for a period of twenty-four (24) months from the employee’s last date of

employment. Recall under this provision requires that the individual has been certified as fit for duty or fit for duty with reasonable accommodation by a medical health care provider statement. The department may, at its own expense, request a second opinion by another health care provider(s) or panel. Should the employee be certified as fit for duty, that employee shall then be considered as laid-off and the provisions of Article 8.17 shall apply. Should that certification occur during the last six (6) months of the twenty-four (24) month period, that employee shall be entitled to recall for a period of six (6) months from the date of that certification.

Employees recalled after the initial fourteen (14) month period shall be subject to the background check process.

If a vacancy occurs in a position, employees on the recall list shall be notified of such vacancies at the employee's address on file with the Human Resources Department. The vacancy will be filled, in accordance with seniority, among current employees and those on the recall list. If employees on the recall list elect not to accept an offer to return to work in the former or a comparable position or fail to respond within seven (7) consecutive days of the offer of recall, they shall be considered to have terminated or abandoned their right to re-employment and relinquished all recall rights. If employees on the recall list elect not to accept an offer of a non-comparable position, they may retain their recall rights for the balance of their recall period.

As long as any employee remains on the recall list, the Employer shall not newly employ by hiring persons into the affected bargaining unit classification(s), within their department, until all qualified employees holding recall rights to that affected classification have been offered recall.

8.16 VACATION & LEAVE CASH OUTS/PAY

Upon separation of employment, an Employee shall be paid for all unused, earned vacation leave, holiday leave and compensatory time, to the extent of established maximums. Sick leave balances at the date of layoff shall be restored upon re-employment with the Employer from the recall list. No sick leave shall accrue during the period of time on the recall list / layoff.

8.17 UNEMPLOYMENT CLAIMS

If laid off employees apply for unemployment compensation benefits, the Employer will not contest the claim and will confirm that the employee was laid off.

ARTICLE 9 – WAGES

9.1 WAGE SCHEDULE

The monthly rates of pay (base wage) for each job title is reflected in the following salary schedule chart. The Specialty and Premium pays are percentage increases that refer back to the salary schedule chart and are additive to the monthly base rate of pay.

9.1.1 COLA Adjustments

~~9.1.1.1 Effective January 01, 2007, the monthly rates of pay shall be increased by ninety percent (90%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index – from June 2005 to June 2006 (no minimum and no maximum). The Index used shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). This results in an application to the salary schedule of 4.16 % (four and sixteen one-hundredths percent).~~

~~9.1.1.2 Effective January 01, 2008, the monthly rates of pay shall be increased by one-hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index from June 2006 to June 2007 (no minimum and no maximum). The Index used shall be CPI-W.~~

~~9.1.1.3 Effective January 01, 2009, the monthly rates of pay shall be increased by one-hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index from June 2007 to June 2008 (no minimum and no maximum). The Index used shall be CPI-W.~~

9.1.1.1 The existing wage rates from the predecessor agreement shall remain in effect through June 30, 2011.

9.1.1.2 Effective July 1, 2011, all wages rates shall be increased one point two percent (1.2%) as reflected below in 9.1.2.

9.1.1.3 Effective January 1, 2012, the monthly rates of pay shall be increased by two and one half percent (2.5%)

9.1.1.4 Effective January 1, 2013 the monthly rates of pay shall be increased by one-hundred percent (100%) of the percentage increase in the Seattle-Tacoma-Bremerton Area Consumer Price Index from June 2011 to June 2012 (no minimum and no maximum). The Index used shall be CPI-W.

9.1.2 Salary Schedule:

~~January 1, 2007~~ July 1, 2011 through December 31, 2011

Job Title	**Monthly**	**Hourly**
Senior Patrol Sergeant	$ 7,772	$ 42.59
Senior Sergeant	$ 7,380	$ 42.59
First Class Patrol Sergeant	$ 7,546	$ 41.35
First Class Sergeant	$ 7,168	$ 41.35
Senior Patrol Corporal	$ 7,256	$ 39.76
Senior Corporal	$ 6,892	$ 39.76
Patrol Corporal	$ 7,048	$ 38.62
Corporal	$ 6,693	$ 38.62
Patrol Police Officer 1	$ 6,715	$ 36.79
Police Officer 1	$ 6,377	$ 36.79
Patrol Police Officer 2	$ 6,305	$ 34.55
Police Officer 2	$ 5,986	$ 34.55
Patrol Police Officer 3	$ 5,890	$ 32.27
Police Officer 3	$ 5,592	$ 32.27
Patrol Police Officer 4	$ 5,574	$ 30.54
Police Officer 4	$ 5,294	$ 30.54
Starting Patrol Police Officer	$ 5,146	$ 28.20
Starting Police Officer (6 -12 mo.)	$ 4,890	$ 28.20
Specialty Pay	**Step 1**	**Step 1**
Traffic Officer	$ 6,166	$ 35.57
K-9 Officer	$ 6,225	$ 35.91
Detective	$ 6,225	$ 35.91
Family Violence Detective	$ 6,225	$ 35.91

ProAct Officer	$ 6,106	$ 35.23
K-9 Officer: Police Officer Current Step, Monthly + 4%		
Detective: Police Officer Current Step, Monthly + 4%		
Traffic Officer: Police Officer Current Step, Monthly + 3%		
Detective: Corporal Current Step, Monthly + 4%		
Family Violence Detective: Police Officer Current Step, Monthly + 4%		
ProAct: Police Officer Current Step, Monthly + 2%		

9.1.3 An accreditation premium of 1% (one percent) will be added to the monthly rate of pay of the employee's current classification and shall be paid monthly for the duration of the contract.

9.2 HIRE-IN RATES

Starting Police Officer positions will be broken down into two categories:

9.2.1 Category I: Officers with prior experience. Prior experience is termed two or more complete years of work as a police officer in a police agency and the successful completion of the Washington State Basic Academy or other acceptable and qualified academy certified by the Washington State Law Enforcement Training Commission. Officers who qualify for this position shall receive starting salary from the wage schedule as follows:

Complete Years Prior Experience	Starting Salary Level
2 years	Police Officer IV
3 years	Police Officer IV
4 or more years	Police Officer III

9.2.2 Category II: Any starting officer who does not have prior experience. Officers in Category II shall receive starting police officer pay for one year before moving into the fourth class police officer position.

9.3 SPECIALTY PAY

9.3.1 K-9 Unit/Dog handler Classification: To compensate for time committed to "at home care" and all other functions related to the care and maintenance of a K-9 unit, the handler shall be compensated as follows:

9.3.1.1 The handler will receive 4% (four percent) premium pay added to the monthly rate of pay of the employee's current classification.

9.3.1.2 In addition, during duty days, one (1) hour of work time each day is dedicated to the care and maintenance of the K-9 dog which has been determined to be reasonable number of hours for the weekly care of the K-9 dog.

9.3.2 ~~Field~~ Police Training Officers will receive two (2) hours of overtime in addition to regular hours worked for each week in which two (2) or more days are engaged in active training.

9.3.3 Detectives shall receive a 4% (four percent) premium added to the monthly rate of pay of the employee's current classification

9.3.4 Traffic Officers shall receive a 3% (three percent) premium added to the monthly rate of pay of the employee's current classification.

9.3.5 ProAct Officers shall receive a 2% (two percent) premium added to the monthly rate of pay of the employee's current classification.

9.4 LONGEVITY

9.4.1 Effective September 1, 2011 employees shall receive, in addition to their monthly base wage, the following longevity pay added to the monthly rate of pay of the employee's current classification, based upon their years of service for the Kirkland Police Department:

Years of Service	Monthly Premium
5-10 years	1.5%
11-15 years	3.0%
16-19 years	5.0%
~~20 years or more~~	~~6.0%~~
20-24 years	7.0 %
25 years or more	8.0 %

9.5 OUT-OF-CLASS PAY

An Officer assigned to the position of Acting Sergeant shall be paid 5% (five percent) premium pay for hours served in excess of two or more consecutive shifts. A Corporal assigned to the position of Acting Sergeant shall be paid 5% (five percent) premium pay for hours served in excess of eight (8) or more consecutive shifts. If the duration of the assignment is unknown at the onset, a Corporal will receive out-of class-pay after the consecutive shifts have been surpassed retroactive to the first day of the assignment. The Senior Corporal will not be eligible for out-of-class pay for filling in as the acting Sergeant.

9.6 EDUCATION INCENTIVE

Effective September 1, 2011 employees with a BA/BS degree and higher from an accredited institution will be eligible for an educational/performance incentive, as set forth below:

Education / Performance Premium

BA/BS Degree	~~**2.0%**~~ **2.5%**
Graduate Degree	~~**3.0%**~~ **3.5%**

It is the employee's responsibility to have their diploma or transcripts provided from an accredited institution to the department time-keeper in order to be eligible for the Incentive. The Education Incentive shall be added to the monthly rate of pay of the employee's current classification and paid in the same manner, but on alternate pay periods, as the Longevity pay described in Article 9.4.

9.7 PHYSICAL FITNESS INCENTIVE
Employees shall be eligible for physical fitness incentives as provided in Appendix A.

9.8 SHIFT DIFFERENTIAL
No language

ARTICLE 10 – OTHER COMPENSATION

10.1 STANDBY PAY
Employees specifically pre-approved by command personnel to be ready reserve for a specific period of time shall be paid at the overtime rate for actual time worked. Standby shall not be subject to a three-hour minimum. Detectives who are assigned on-call status shall be provided a city take-home vehicle for each day so assigned.

10.2 CALL-BACK PAY
All employees will respond to call-outs unless extenuating circumstances such as illness or other incapacitation prevent the employee from responding.

Full-time employees who are called back to work after leaving the job site shall receive a minimum of three (3) hours' pay at the overtime rate. When an employee is called out between shifts, the time worked between shifts shall be paid at the rate of one and one-half (1½) times the regular rate.

10.3 MILEAGE REIMBURSEMENT
All bargaining unit employees who are required to use their own vehicles for Employer business shall be reimbursed at the mileage rate set by the current policy for all miles driven on such business.

10.4 CLOTHING AND EQUIPMENT

10.4.1 The Employer shall continue to provide necessary uniforms and equipment. Detectives shall be provided an annual allowance for clothing of not less than three hundred dollars ($300) every six months. Clothing allowance shall be reflected as taxable income.

10.4.2 The Employer shall provide for the cleaning of uniforms for employees. The provisions for the cleaning of street clothing and/or clothing provided under Article 9 Section 1, excluding uniforms, shall be taxable to the employee in accordance with IRS rules.

10.4.3 In addition, the Employer agrees to replace or repair equipment or clothing belonging to the employee, which is damaged in the line of duty. Equipment or clothing shall be construed to mean items owned by the employee, which are required to perform their duties. To be considered for repair or replacement, equipment or clothing damaged in the line of duty must be submitted to the shift supervisor no later than the end of the Officer's next regular duty day, along with a written report and any documentation to support the cost of the damaged item.

ARTICLE 11 – HOLIDAYS

11.1 HOLIDAYS

Regular employees shall be granted the following holidays and other such days as the City Council may establish, without a reduction in pay; non-regular employees shall receive the following holidays without pay:

Holiday	Observed
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Day	December 25
Two (2) Floating Holidays	At employee's choice
~~One Floating Holiday~~	~~At employee's choice~~
~~One Floating Holiday~~	~~At employee's choice~~

11.2 HOLIDAY ELIGIBILITY

An employee must be employed for six (6) consecutive months in order to be eligible for their floating holiday. In selecting the Floating Holiday, the employee's choice will be granted, provided that prior approval is given by the immediate supervisor or the Division Commander. The Floating Holiday must be taken during the calendar year, or entitlement to the day will be forfeited.

Personnel assigned to Patrol shall be granted twelve days off in lieu of the above holidays. Such days shall be given at the convenience of the City, but within twelve months of the holiday.

11.3 HOLIDAY OBSERVANCE

Employees will observe the Holiday on the day the City observes the respective Holiday. Provided however, Patrol personnel will follow Article 11.1~~.2~~ and the holiday shall be banked and used on a regularly scheduled work day mutually agreeable to the employee and the employer.

11.4 HOLIDAY ON DAY OFF

When the Holiday falls upon the employee's day off, the Holiday shall be banked and used on a regularly scheduled workday mutually agreeable to the employee and the Employer.

11.5 HOLIDAY COMPENSATION

Employees who are assigned to work on the Holidays in Article 11.1 (designated as the "Actual" date, (excluding Floating Holidays)~~Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day,~~ shall be eligible for ~~compensatory time-off or~~ overtime compensation at one and one-half (1 ½) times the employee's hourly rate for the number of hours actually worked on the specified holiday.

~~Terms and conditions of this Article shall apply to New Years Day beginning in 2008 and Presidents Day in 2009.~~

ARTICLE 12 – VACATION

12.1 VACATION ACCRUAL

Each regular full-time employee shall accrue vacation leave at the rate of 1/12 of annual vacation per month of service, based on the following schedule:

Years of Employment	Annual Vacation (Working Hours)
1st year of employment	104 hours
2 – 3 – 4 years	104 hours
5 – 6 – 7 years	128 hours
8 – 9 – 10 years	136 hours
11 – 12 – 13 years	144 hours

14 – 15 – 16 years	160 hours
17 – 18 – 19 years	176 hours
20th year and beyond	192 hours

12.1.1 Vacation leave cannot be accrued during any leave without pay, but such leave shall not be considered an interruption of consecutive years of employment for the purpose of determining entitlement to additional vacation days under the foregoing schedule.

12.1.2 An additional eight (8) hours of vacation will be granted in the event a holiday falls within an employee's vacation period. Employees working ten (10) hour shifts shall be entitled to ten (10) hours of vacation in the event a holiday falls within their vacation period. Employees working twelve (12) hour shifts shall be entitled to twelve (12) hours of vacation in the event a holiday falls within their vacation period.

Vacation leave shall not be accumulated in excess of ~~two hundred eighty - eight (288)~~ three hundred (300) hours.

Employees are encouraged to utilize Vacation for appropriate time off and manage vacation requests throughout the year. Any vacation leave accrued in excess of the maximums shall be forfeited and shall not form the basis for any additional compensation. Upon termination of employment for any reason, no payment for vacation accumulation shall exceed two hundred forty (240) hours.

Earned vacation leave may be taken at any time during a period of illness after expiration of sick leave. Taking leave without pay in any month shall result in pro-ration of vacation accruals for that month, calculated upon actual hours worked as a percentage of the total hours of the pay period.

12.2 VACATION UPON TERMINATION

Upon separation of employment, an Employee shall be paid for all unused, earned vacation leave, up to established maximums.

In no case will an employee be paid for accrued vacation upon separation if he/she has been employed by the City for less than twelve consecutive months.

ARTICLE 13 – SICK LEAVE

13.1 SICK LEAVE ACCRUAL

For LEOFF II Members of the Bargaining Unit:

13.1.1 After completion of the one-year period, employee's sick leave with pay shall accrue at the rate of eight (8) hours of leave for each full calendar month of the employee's service, and any such leave accrued in any year shall be accumulative for succeeding years to a maximum of 960 hours.

13.1.2 After completion of the one year period, Patrol Officers sick leave pay shall accrue at the rate of twelve (12) hours of leave for each full calendar month of the employee's service in that classification. Any such leave accrued in any year shall be accumulative for succeeding years to a maximum of 1010 hours.

13.2 SICK LEAVE USAGE

Sick leave shall be available to employees after they have worked for a minimum of thirty (30) consecutive calendar days after the most recent date of hire.

13.2.1 Consistent with the confidentiality provisions of the Americans with Disabilities Act, and upon good cause, a health care provider's statement may be required.

13.2.2 Upon appointment as a police officer, an employee shall be credited with 96 hours of sick leave. If an employee terminates before the unearned sick leave hours used are repaid, the unearned sick leave time taken will be deducted from the final paycheck.

13.2.3 Conversion of Accrued Sick Leave cash out to Retiree Medical Account: Upon retirement from City service, or as a result of a medical condition disqualifying from service, or after reaching age 50 and leaving City service, or upon death of an employee, the employer shall make contributions into a qualifying trust or Retiree Medical Account, in an amount equal to fifty percent (50%) of the cash value of employee's accrued sick leave balance at the time of retirement (accrued sick leave hours x regular rate of pay x 50%) and shall not exceed ~~Ninety-five hundred ($9,500) in 2007, Ten Thousand Dollars ($10,000) in 2008 and~~ Ten Thousand and Five Hundred Dollars ($10,500) ~~in 2009~~. <u>Effective January 1, 2013, the amount shall not exceed Eleven Thousand Dollars ($11,000).</u> The trust fund will be established in accordance with applicable federal and state laws, and the City shall contribute the monies on a pre-tax basis. The monies contributed to the trust fund shall only be used for retiree insurance premiums or as otherwise provided by law. The City will also contribute $50 per month for each individual member to the Retiree Medical Account.

For the purpose of this Article, retirement shall be defined as either normal service retirement or voluntary termination in good standing after twenty (20) years of continuous service with the Kirkland Police Department.

13.3 SHARED LEAVE

The Employer may permit an employee to receive vacation <u>or compensatory time</u> consistent with the current Shared Leave policy.

13.4 COORDINATION – WORKERS' COMPENSATION

Workers' Compensation Supplement (LEOFF II). The City will provide a disability leave supplement for LEOFF II employees injured in the line of duty when such injury is directly related to the inherent dangers associated with employment in law enforcement. The supplement shall go into effect when an employee becomes eligible for State workers' compensation benefits and shall equal the difference between the State workers' compensation monthly payment and the employee's base monthly salary. This pay supplement shall continue as long as the employee is off work and receiving workers' compensation benefits.

In no event, shall the combination of Workers' Compensation, long term disability benefit, and this Workers' Compensation supplement exceed one hundred percent (100%) of the employee's regular salary.

While the Workers' Comp Supplement is governed by rules established and administered by DRS, employees are advised of the following current DRS practices, which are subject to change by DRS:

During the first 48 hours of disability leave, the wages are reported as L & I (60%) and Sick Leave (40%). The remainder of the disability time is reported as L & I (60%), Sick Leave (20%) and Supplementary Disability (20%) as per RCW 41.04.510.

Time-loss payment from L & I are not subject to federal income or Social Security taxes. The Department of Retirement Systems considers 80% (L & I payment and supplemental disability) of your time not reportable hours for service credits. Employees have the option to request the reestablishment of these service credits by submitting a written request to DRS.

13.5 FAMILY MEMBER

Sick leave may be utilized as above for illness in the immediate family requiring the employee's attendance.

Immediate Family shall mean persons related by blood, marriage, or legal adoption in the degree of relationship of grandparent, parent, wife, husband, brother, sister, child, grandchild, or domestic partner (as defined by Employer Policy) and other persons with the approval of the City Manager or designee.

ARTICLE 14 – LEAVES OF ABSENCE

14.1 IN GENERAL

Leave of absence requests shall not be unreasonably denied. All leaves are to be requested in writing as far in advance as possible.

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave, unless otherwise provided for in this Agreement.

Leave does not accrue nor may it be used until the first day of the pay period in which it is earned (no "negative" leave use during the period in which it is earned).

14.2 JURY DUTY/COURT

An employee who is required to serve on Jury duty shall be authorized leave with pay, less any amount received from the court for such service, up to two (2) weeks.

14.3 MILITARY LEAVE

All regular employees shall be allowed military leave as required by RCW 38.40.060 and as interpreted by the Court. This provides for ~~fifteen (15)~~ twenty one (21) working days of military leave per year (October 1 through September 30).

14.4 BEREAVEMENT

Employees shall be entitled to ~~three (3)~~ four (4) days Bereavement Leave without loss of compensation upon the death of a member of the Employee's immediate family. For the purposes of this contract, immediate family shall be defined as stipulated in Article 13.5 Additional time off as may be required for travel or other circumstances may be granted if approved in advance by the employer. Such additional time shall be deducted from an accrued leave of the employee's choice.

14.5 MAINTENANCE OF SENIORITY

The Employer shall adjust the employee's anniversary date to reflect any period of unpaid leave of thirty (30) continuous days or more. Seniority shall continue to accrue and the employee's anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA or military leave.

14.6 LEAVE WITHOUT PAY

Unpaid Leave of Absence shall be governed by existing City policies.

14.7 FAMILY LEAVE FMLA

Family Medical leave will be allowed consistent with State and Federal law and with existing City policies.

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least 1250 hours during the prior twelve (12) months shall be entitled to up to twelve (12) weeks of leave per rolling year for the birth, adoption or placement of a foster child; to care for a spouse or immediate family member with a serious health condition; or when the employee is unable to work due to a serious health condition. For purposes of this Article, the definition of "immediate family" will be found in Article 13.5.

The Employer shall maintain the employee's health benefits during this leave. If the employee fails to return from leave for any reason other than the medical condition initially qualifying for the FMLA absence, the Employer may recover from the employee the insurance premiums paid during any period of unpaid leave.

If a leave qualifies under both federal and state law, the leave shall run concurrently. Ordinarily, the employee must provide thirty (30) days written advance notice to the Employer when the leave is foreseeable. The employee should report qualifying events as soon as known and practicable.

The combination of FMLA and other types of leave(s) is not precluded and, in fact, leave utilizations are to be concurrent, with the intent that appropriate paid accruals are to be utilized first, consistent with other Articles of this Agreement. The Employee may elect to retain up to forty (40) hours of sick leave and up to forty (40) hours of vacation (prorated by their FTE) for use upon return to work, consistent with the process identified in the personnel policy. Upon the employee's election, any accrued comp time may be utilized prior to any period of unpaid leave.

14.8 MATERNITY LEAVE

Consistent with WAC 162-30-020, the Employer will grant a leave of absence for a period of temporary disability because of pregnancy or childbirth. This may be in addition to the leave entitlements of FMLA.

This leave provides female employees with the right to a leave of absence equivalent to the disability phase of pregnancy and childbirth. There is no eligibility requirement, however the Employer has no obligation to pay for health insurance benefits while on this leave (unless utilized concurrent with FMLA).

Leave for temporary disability due to pregnancy or childbirth will be medically verifiable. There is no limit to the length of the disability phase, except for the right for medical verification and the right of second opinion at the employer's expense. At the end of the disability leave, the employee is entitled to return to the same job or a similar job of at least the same pay. Employees must use their accrued vacation and sick leave, if any, during the leave period and, at their election, any accrued comp time, consistent with the retention provision as provided in Article 14.7. Once this paid leave is exhausted, the employee's leave may be switched over to unpaid leave.

14.9 INCLEMENT WEATHER

Employee rights and responsibilities during severe weather and emergency or disaster conditions are covered by the current Inclement Weather Policy of the Employer. The goal shall be to continue to provide essential Employer services, consistent with public and employee safety and emergency operations priorities. Law enforcement is critical to these essential services and the expectation is that employees will report to duty as scheduled.

ARTICLE 15 – HEALTH & WELFARE

~~15.1 MAINTENANCE OF BENEFITS~~

~~Medical and Dental Insurance - The Employer may self-insure medical and/or dental insurance coverage or select a new medical and/or dental insurance plan and shall make every possible effort to maintain substantially equivalent benefits. The Employer and the Guild shall meet to explore alternative insurance coverage prior to selecting any new medical and/or dental insurance plan in order to maintain substantially equivalent benefits at a reasonable cost. The Employer recognizes its responsibility to bargain with the Guild the impact of those decisions.~~

~~The Guild shall take part in and have an appointed representative on the Health and Welfare Benefits Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. Among the items to be considered would be identification of options for retiree medical participation. The Benefit Committee representative shall have no authority to negotiate on behalf of the Guild any changes to be scheduled or content of benefit plans, any such changes shall be governed in accordance with Article 15.1 of this Agreement.~~

~~Participation in benefits shall be consistent with Article 5.2 of this Agreement and the trusts and Plans described below.~~

~~15.2 HEALTH AND LIFE INSURANCE~~

~~Medical Insurance - Effective January 1, 2007 the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under the Association of Washington Cities Regence Medical Plan B or Group Health Plan 2 for each employee of the bargaining unit.~~

~~Dental and Vision - Effective January 1, 2007, the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under the Association of Washington Cities.~~

~~Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee term life insurance coverage that has a policy value of two (2) times the annual base rate of pay of the employee. The employee is responsible for any taxes associated with this benefit.~~

> ~~15.2.1 The City agrees to continue payment of the City portion of the premium for the spouse and eligible dependents medical and dental premiums for a period of twelve (12) calendar months following the death of an active Police Officer whose death is the direct result of injuries incurred in the line of duty. In the event the surviving spouse remarries within that twelve (12) month period, the City payment of premiums shall cease with payment of the premium for the month in which the marriage occurs. The parties agree this provision shall~~

~~specifically not apply to presumptive illnesses, which cause the death of the officer.~~

15.1 MAINTENANCE OF BENEFITS

Medical Insurance - The Employer shall self-insure medical benefits coverage effective January 1, 2011. The Employer will offer the Prime Medical plan and shall make every effort to maintain substantially equivalent benefits.

The Guild shall take part in and have an appointed representative on the Health and Welfare Benefits Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. Among the items to be considered would be identification of options for retiree medical participation.

The Benefits Committee representative shall have no authority to negotiate on behalf of the Guild any changes to be scheduled or content of benefit plans. The Employer shall continue with collective bargaining obligations with the Guild, as currently exist under law for any such changes.

Participation in benefits shall be consistent with Article 15.2 of this Agreement.

15.2 HEALTH AND LIFE INSURANCE

Medical Insurance - Effective January 1, 2011 the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of Employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under the City of Kirkland PPO Prime Plan or Group Health Plan for each Employee of the bargaining unit.

Dental and Vision - Effective January 1, 2011, the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of Employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under Washington Dental Services or Willamette Dental and Vision Service Plan.

Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of Employee term life insurance coverage that has a policy value of two (2) times the annual base rate of pay of the Employee. The Employee is responsible for any taxes associated with this benefit.

15.2.1 The City agrees to continue payment of the City portion of the premium for the spouse and eligible dependents medical and dental premiums for a period of twelve (12) calendar months following the death of an active Police Officer whose death is the direct result of injuries incurred in the line of duty. In the event the surviving spouse remarries within that twelve (12) month period, the City payment of premiums shall cease with payment of the premium for the

month in which the marriage occurs. The parties agree this provision shall specifically not apply to presumptive illnesses, which cause the death of the officer.

15.3 FLEXIBLE SPENDING ACOUNT – FSA

The Employer participates in a special program under the provisions of IRS Section 125. Employees may voluntarily elect to participate in the reimbursement program to pay medical or dependent care expenses with pre-tax dollars. The Employer makes no contribution, other than as identified in Article 9.8, makes no assurance of ongoing participation and assumes no liability for claims or benefits.

~~For the 2007 plan year, the employer shall make a contribution in the amount of two hundred dollars ($200) for qualifying health care expenses. Additional contributions to the flexible spending account can be made by the employee as a payroll deduction subject to the rules and limitations contained within the Internal Revenue Code.~~

For purpose of encouraging employee health and early identification of health issues and opportunities, upon presentation of an affirmation by the employee of an annual physical by a health care provider to the department time-keeper by November 1st of the year, the employee's FSA account shall be funded for the following year ~~(establishing 2008 and 2009 eligibility)~~ in the amount of three hundred dollars ($300).

Additional contributions to the flexible spending account can be made by the employee as a payroll deduction subject to the rules and limitations contained within the Internal Revenue Code.

15.4 RETIREMENT

Pensions for employees and contributions to pension funds will be governed by applicable Washington State Statutes in relation thereto in existence during the contract period.

ARTICLE 16 – TRAINING

16.1 TRAINING

Upon fourteen (14) days advance notice by the employer, an employee's shift may be modified for one or more weeks to four (4) ten (10) hour days or four (4) twelve (12) hour days for in-service training, with a preference for a 4-10 training schedule. Overtime shall be compensated for in-service training when hours exceed the employee's regular scheduled workweek.

An employee attending full day or longer training courses shall be paid for their normal shift. Attendance at optional special training classes outside scheduled training hours shall not be compensated for unless specifically pre-approved by command staff. Probationary employees who are in training may be transferred to their next duty assignment in accordance with Section 6.1.

16.2 TRAINING REIMBURSEMENT

Compensation associated with training or representation of the Employer on official business shall be consistent with the current policy and the Fair Labor Standards Act (FLSA) and WAC 296-128-500. Reimbursement of associated costs shall be consistent with City Policy.

ARTICLE 17 – LABOR/MANAGEMENT COMMITTEES

17.1 PURPOSE AND COMPOSITION OF COMMITTEES

The Executive Employee Relations Committee shall meet as needed at the request of either party, provided that five (5) working days notice of the meeting is given to discuss and resolve issues of continuing importance to the Guild and/or Employer.

17.2 COMPENSATION

All meeting time spent by members of the joint Labor-Management Committee will be considered time worked if during duty hours and will be paid at the appropriate regular rate of pay.

ARTICLE 18 – HEALTH & SAFETY

18.1 SAFE WORKPLACE

The Employer is responsible for maintaining a safe and healthful workplace. The Employer shall comply with all federal, state, and local laws applicable to the safety and health of its employees.

Recognizing that danger is an inherent aspect of law enforcement work, Employees who have a reasonable basis for believing the assignment would constitute a danger to their health and safety, should report the concern. The employee shall immediately contact a supervisor who shall make a final determination with regard to safety. No directive shall be delayed pending such determination.

All on-the-job injuries, no matter how slight, must be reported. Employees must immediately notify their supervisor if they are unable to work because of a work-related injury or illness.

FIREARMS

No police officer shall be required to work without a firearm unless mutually agreed to the contrary.

18.2 HEALTH & SAFETY PLAN

The Employer shall develop and follow written policies and procedures to deal with on-the-job safety and shall have effective safety and accident prevention plans in conformance with state (WAC 296-800) and federal laws.

18.3 DRUG FREE WORKPLACE
The City and the Guild agree to abide by the City of Kirkland Police Department Substance Abuse Policy that is attached as Appendix B.

18.4 WORKPLACE VIOLENCE
The employer is committed to employee health and safety. Workplace violence, including threats of violence by or against a City employee, will not be tolerated and should be immediately reported whether or not physical injury occurs, except those in the course and performance of law enforcement duties.

ARTICLE 19 – GRIEVANCE PROCEDURE

19.1 GRIEVANCE DEFINED
A grievance means a claim or dispute by a grieved employee, group of grieved employees, or the Guild Executive Board with respect to the interpretation or application of the provisions of this agreement.

19.1.1 Reference to days in this Article shall refer to calendar days.

19.2 GRIEVANCE PROCEDURE
Notification: In the event that an employee believes that the City is operating in violation of this agreement, the employee may notify his immediate supervisor.

19.2.1 Filing Formal Grievance: Within fourteen (14) days after the employee first becomes aware or reasonably should have become aware of the violation, a written grievance shall be submitted to the Lieutenant. This notification must be signed by the employee and must state the issue, section of the agreement violated, facts giving rise to the grievance, and the remedy sought. This notification will be forwarded through the chain of command and will be designated as receipted, based on the date stamp of the authority designated at the appropriate step of the grievance.

19.2.2 It is agreed that taking a matter to a hearing before the Civil Service Commission constitutes an election of remedies and a waiver of any duty arising under this agreement to enter into binding arbitration. Similarly, upon the subsequent filing of an action as described above, a grievance, previously filed, shall be deemed withdrawn.

19.2.3 Step 1: The Lieutenant shall respond in writing within fourteen (14) days. If the action taken by the Lieutenant corrects the alleged violation to the satisfaction of the presenting party, the grievance shall be deemed resolved. In

the event the presenting party(s) do not feel the alleged violation has been corrected to their satisfaction, the presenting party(s) shall proceed to Step 2 within seven (7) days.

19.2.4 Step 2: The Captain shall respond in writing within fourteen (14) days of receipt and date stamp of the grievance. If the action taken by the Captain corrects the alleged violation to the satisfaction of the presenting party, the grievance shall be deemed resolved. In the event the presenting party(s) does not feel the alleged violation has been corrected to their satisfaction, the presenting party(s) shall proceed to Step 3 within seven (7) days.

19.2.5 Step 3: Upon receiving a written grievance from an employee or the Guild, the Chief of Police shall attempt to resolve the grievance within fourteen (14) days. If the Chief of Police is unable to resolve the grievance to the satisfaction of the presenting party(s), the grievance, together with all other pertinent materials, shall be presented to the City Manager, and the presenting party shall be notified in writing. In the event the presenting party(s) does not feel the alleged violation has been corrected to their satisfaction, notice may be given and the grievance shall proceed to Step 4 within seven (7) days.

19.2.6 Step 4: Upon receiving a written grievance, the City Manager or designee shall attempt to resolve it within thirty (30) days. If the grievance is not resolved by the City Manager or designee, the presenting party(s) will be notified in writing. In the event the Guild does not feel the alleged violation has been corrected to their satisfaction the grievance may, within thirty (30) calendar days, be referred to arbitration by the Guild.

19.2.7 Binding Arbitration: If agreement cannot be reached as to the arbitrator within fourteen (14) days of notice of the desire to proceed, the parties shall jointly request the American Arbitration Association to provide a panel of eleven (11) arbitrators from which the parties may select one. The representatives of the Employer and the Guild shall alternately eliminate the name of one person from the list until only one name remains. The person whose name was not eliminated shall be the arbitrator. It shall be the function of the arbitrator to hold a hearing at which the parties may submit their cases concerning the grievance. The arbitrator shall render their decision based on the interpretation and application of the provisions of this agreement within thirty (30) days after such hearing. The decision shall not add to, modify, or delete any provision of the agreement; and it shall be final and binding upon both parties to the grievance provided the decision does not involve action by the Employer, which is beyond its jurisdiction. The expenses of the arbitration hearing shall be borne equally by the Employer and the Kirkland Police Officers Guild. Each party shall be completely responsible for all costs of preparing and presenting its own case, including compensating its own representatives and witnesses. If either party desires a record of the proceedings, it shall solely bear the cost of producing such a record.

19.3 GUILD/EMPLOYER GRIEVANCE

Either the Guild or the Employer may initiate a grievance.

The Employer may not grieve the acts of individual employees, but rather, only orchestrated acts or actions of authorized representatives believed to be in conflict with this Agreement. An Employer grievance will not be subject to Arbitration and may only go to mediation upon mutual agreement.

The Guild may initiate a Grievance at Step 2 anytime that it involves a group of employees from different workgroups. Such grievances may be referred to mediation services by mutual agreement prior to Arbitration.

19.4 SCHEDULE OF MEETINGS

Consistent with Article 4.8, grievance investigations and meetings on duty time shall be subject to prior notice and approval. If authorization cannot be immediately granted, the Employer will arrange to allow investigation of the grievance at the earliest possible time.

ARTICLE 20 – NO STRIKE / NO LOCKOUT

20.1 NO STRIKE / NO LOCKOUT

It is understood and agreed that the services performed by City employees included in this Agreement are essential to the public health, safety, and welfare. Therefore, the employees agree that there shall be no strikes, slowdowns, or stoppage of work, or any interference with the efficient operation of the Police Department. Violation of this article shall subject the employee to disciplinary action or discharge.

The Employer shall not lockout any employee during the life of this Agreement.

ARTICLE 21 – MANAGEMENT RIGHTS AND RESPONSIBILITIES

21.1 MANAGEMENT RIGHTS AND RESPONSIBILITIES

Any and all rights concerned with management and operation of the Department are exclusively that of the Employer unless otherwise provided by the terms of this agreement. The Employer has the authority to adopt rules for the operation of the department, provided such rules are not in conflict with the provisions of this Agreement or with applicable law. The Employer has the right, among other actions, to discipline or discharge for cause, to assign duties customarily performed by police officers, to determine the required number of personnel, to determine new work methods, to contract for goods and services, and to perform all of the functions not otherwise expressly limited by this Agreement or other applicable law.

Nothing in this agreement is intended to, nor shall be deemed to be in conflict with RCW 41.12 (Civil Service for City Police), and the Kirkland Civil Service Commission Rules and Regulations. Nothing herein shall be construed to be a waiver of the Guild's right to

engage in collective bargaining or to affect the enforceability of any provisions of this contract.

21.2 INSURANCE

Consistent with existing Kirkland Municipal Code provisions, the City shall secure and maintain with responsible insurers such false arrest, malicious prosecution and liability insurance as is customarily maintained by public bodies with respect to the operation of police departments, all to the extent that such insurance can be secured and maintained at reasonable costs. The coverage to be so provided shall, to the extent available, be substantially equal to such coverage provided by the City immediately prior to the effective date of this agreement.

Such insurance shall include coverage for punitive damage awards made against an officer resulting from conduct found to be within his or her scope of duty or, the City may self-insure. Should a damage award result from conduct found to be outside the officer's scope of duty, including but not limited to punitive damages, the City and its insurer will not be responsible for payment of that award. Each allegation or cause of action for conduct complained of will be analyzed separately in determining whether the conduct was within or outside the officer's scope of duty for the purposes of this Article. A determination by the City Manager that conduct was outside of the officer's scope of duties is final but may be reviewed only by an action in King County Superior Court.

ARTICLE 22 – GENERAL PROVISIONS

22.1 SAVINGS CLAUSE

If any provision of this agreement shall be held invalid by operation of law, or any tribunal of competent jurisdiction, or if compliance or enforcement of any provision should be restrained by such tribunal pending final determination as to its validity, the remainder of this agreement shall not be invalid and will remain in full force and effect. Provided that should either party so request, the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such invalid provision.

ARTICLE 23 – ENTIRE AGREEMENT

23.1 DURATION CLAUSE

Except as otherwise stated herein, this agreement shall become effective on signature by both parties but not earlier than January 1, ~~2007~~ 2010 ~~will carry~~ through December 31, ~~2009~~ 2013. In the event negotiations for a new agreement have not been completed by the termination date of this agreement, the provisions contained in this agreement shall remain in effect until the conclusion of the negotiations for a new agreement.

23.2 ENTIRE AGREEMENT

This agreement expressed herein in writing constitutes the entire agreement between the parties, and there shall be no amendments, except in writing and with the agreement of both parties.

SIGNATURES

Dated this _____ day of _____, ~~2007~~ 2011

CITY OF KIRKLAND;

By _____
Kurt Triplett, City Manager

KIRKLAND POLICE OFFICER'S GUILD;

By _____
Jack Keesee, President

By _____
Amy Crawford, Secretary

APPROVED AS TO FORM:

_____
William Evans, Assistant City Attorney

Date _____

Appendix "A"
to the
AGREEMENT
by and between

City of Kirkland
and
The Kirkland Police Guild
(Representing the Law Enforcement Commissioned Employees)

PHYSICAL FITNESS INCENTIVE PROGRAM

This Appendix is supplemental to the AGREEMENT by and between the CITY OF KIRKLAND, WASHINGTON, hereinafter referred to as the "Employer", and the Kirkland Police Guild - Commissioned, hereinafter referred to as "Guild."

A.1 A mutual goal of the Employer and the Guild is to encourage good physical fitness. The parties agree that an acceptable level of physical fitness is an essential function of the job of a Police Officer. The purpose of this program is to promote the physical capability of the commissioned members of the Kirkland Police Department and to enhance the members' general physical fitness level.

A.2 Pursuant to Article 9.8 of the Collective Bargaining Agreement between the parties, the information contained in this appendix shall serve as the rules and regulations of a physical fitness program and the procedures by which the program shall be administered.

A.3 Both parties agree that participation in the physical fitness program is voluntary. The Employer and the Guild encourage participation in the fitness program by members. Training, exercising, and general conditioning in preparation to take the physical fitness test shall be on an individual and voluntary basis without compensation. The Employer agrees to offer the fitness test ~~once~~ in ~~2007~~ 2011and twice per year in ~~2008~~ 2012 and ~~2009~~ 2013. The test will be conducted during work hours in conjunction with the spring and fall KPD in-service training block. This on-duty status during the testing process shall protect members against loss of pay for time off work due to any injury sustained while participating in the fitness test. Members who wish to participate in the fitness test shall be required to sign the general liability waiver set forth in A.8.

A.4 The fitness test shall be comprised of three core components—push-ups, sit-ups, and 1.5 mile run. This "Cooper" test is modified for age/gender and is set forth in Section A.7 of this Appendix. The components are generally designed to measure aerobic/cardiovascular endurance, and upper/lower body muscular strength. A member must satisfy the standards of each test component in order to qualify for the monetary incentive; i.e., failing one component of the test constitutes overall failure. A member shall be allowed one opportunity to pass the various fitness test components during the test.

A.5 The cycle year for the physical fitness incentive program is November 1st – October 31st.

A.6 In 2007, the fitness test ~~shall be~~ was offered once in the fall. Members who successfully passed the fitness test ~~shall~~ received an incentive pay of $550 as a lump-sum payment on the November 23rd paycheck. In January, 2008, the $550 converts~~ed~~ to a physical fitness incentive equal to one (1%) percent of the monthly rate of base pay for remainder of the cycle year. After that time, the test will be offered twice each cycle year and it is the individual employee's responsibility to be trained and available for one of the scheduled opportunities. Individual tests will not be arranged. In this manner, a commissioned employee would have two opportunities (spring and fall) to successfully pass the test, which would ensure the 1% fitness incentive for the following cycle year. For ~~2009~~ 2010, the same criteria and process as used in ~~2008~~2009 shall apply for employees who pass the test. An employee who fails to pass either test offered in ~~2008~~ 2010 shall be eligible to receive the 1% up until October 31, ~~2008~~ 2010. He/she may take the test in ~~2009~~ 2011, but upon passing, the 1% incentive pay shall be effective at the commencement of the next cycle year, November 1, ~~2009~~ 2011. The same cycle structure shall apply for 2012 – 2013.

A.7 **Physical Fitness Test Description** The physical fitness test shall be comprised of the following components. The results of these tests shall be made available to the Employer.

Employee Age:	**20 – 29**	**30 – 39**	**40 – 49**	**50 – 59**
1.5 mile run				
Male	12:51	13:36	14:29	15:26
Female	15:26	15:57	16:58	17:54
Push-ups (1 minute)				
Male	29	24	18	13
Female	15	11	9	5
Female (modified)	23	19	13	12

- The body should be straight and the hands about shoulder width apart
- The body should remain rigid throughout the down phase; with the chest coming to within 3 inches of the floor. (The tester can place a foam block on the floor beneath the participant's chest)
- From the down phase, the participant must return to the up position with the arms straight
- The participant is only permitted to rest in the up position
- The total number of push-ups which the participant performs in 1 minute are counted
- Females may choose to use the modified push-up (knees on ground with feet up in the air)

Sit-ups (1 minute)				
Male	38	35	29	24

Female	32	25	20	14

- The participant lies on the back with the knees flexed at a right angle. The hands, with fingers interlocked, are placed at the back of the neck.
- A partner sits on the participant's insteps with his/her hands placed behind the subject's calf muscles to keep the heels in contact with the floor
- The participant sits up to touch the knees with the elbows
- Without pause, the participant returns to the starting position just long enough for his/her head (not just shoulder blades) to touch the mat and immediately sits up again

A.8 Physical Fitness Test General Liability Waiver Form

City of Kirkland

Kirkland Police Department—Fitness Ability Test

I hereby acknowledge that the format of the City of Kirkland Fitness Ability Test has been explained to me and I understand that the purpose of this test is to measure my fitness ability in my current position as a commissioned Police Officer for the City of Kirkland.

I also acknowledge that participation in the Fitness Ability Test is totally voluntary and, while I may be permitted to participate in the test on compensable duty time, I am under no compulsion or directive to do so.

I certify that to the best of my knowledge, I am fit to undertake the activities involved in the test and have no physical impairment or medical condition which would preclude my completion of the test. I have had the opportunity to consult my personal physician and have done so or chosen not to. I understand that the tests are strenuous and hold the potential for serious injury or death. I understand that I may stop the test at any time and that the persons administering the test may discontinue it at any time they have a reasonable basis for belief that continuation of the test could be detrimental to my health. Discontinuance may prevent successfully passing the test, consistent with Section A.4.

I assume full and complete responsibility for undertaking the test and I hereby release the City of Kirkland, its officers, employees, and agents from any responsibility or liability for any loss or damage arising from the bodily injury relating to my participation in the test, except for any loss or damage arising solely from the negligence of the City of Kirkland, its officers, employees, or agents.

_____

Name (print)

_____
Signature

_____
Date

Appendix "B"
to the
AGREEMENT
by and between
City of Kirkland
and
The Kirkland Police Guild
(Representing the Law Enforcement Commissioned Employees)

SUBSTANCE ABUSE POLICY

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POLICIES AND PROCEDURES FOR DRUG/ALCOHOL TESTING AND TREATMENT

These policies and procedures have been agreed to by the parties and shall become a part of the current labor agreement between the City of Kirkland and the Police Guild. All applicable articles of the contract shall apply to these policies and procedures.

A. PURPOSE

The City of Kirkland recognizes that employees are our most valued resource. The goal of this policy is to ensure a substance abuse free workplace providing prevention, training and rehabilitation for employees. In order to protect the health, welfare, and safety of its employees, and the citizens whom they serve, the following policy regarding substance abuse in the work place is adopted.

B. POLICY

1. It is the policy of the City of Kirkland to provide an alcohol and drug-free workplace for its employees.

2. The City's philosophy on substance abuse is to emphasize prevention, training, rehabilitation, and recovery from substance abuse. Counseling and support will be made available through an Employee Assistance Program, and the employees' right to privacy will be respected at all times.

3. It is the responsibility of the City and the Guild to preserve and protect public trust, public safety, and fitness for duty.

4. It is the responsibility of all employees to report for duty and be able to perform their jobs safely and effectively, unimpaired by drugs, alcohol, or any other intoxicating substance.

5. The possession, manufacture, use, distribution, or sale of alcohol, unlawful drugs or drug paraphernalia on City premises or while on duty is prohibited.

C. APPLICABILITY

This policy applies to all bargaining unit employees through the rank of Sergeant.

D. DEFINITIONS

For purposes of this policy, the following terms have the meanings indicated:

1. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

2. Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of Federal, State, or City drug laws.

3. Counseling means participation in a substance abuse treatment or rehabilitation program provided through the City of Kirkland's Employee Assistance Program (EAP).

4. Criminal drug statute means a criminal law involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.

5. Medical Review Officer (MRO) is a licensed physician selected by joint agreement between the parties to receive positive drug test results from the laboratory, analyze and interpret the results, and report to the employer those results as outlined in Section I of this policy.

6. Prohibited Substances are those substances, whose dissemination is regulated by law, including, but not limited to narcotics, depressants, stimulants, hallucinogens, cannabis, and alcohol. For the purpose of this policy, substances that require a prescription or other written approval from a licensed health care provider or dentist for their use shall also be included when used other than as prescribed. The drugs and/or their metabolites that are included in these categories are as follows:

   a) marijuana
   b) cocaine
   c) opium or opiates
   d) phencyclidine (PCP)
   e) amphetamines
   f) or methamphetamines

7. Reasonable suspicion means facts and circumstances sufficiently strong to lead a reasonable person to suspect that the employee is under the influence of drugs and/or alcohol which is corroborated by a second individual other than the designated Guild representative.

8. Representation mean Employee's right to Guild or legal representation at testing sites and at any subsequent disciplinary action related to implementation of substance abuse procedures.

9. Substance abuse means the use of a substance, including medically authorized drugs other than as prescribed for the user, which impairs job performance or poses a hazard to the safety and welfare of the employee, the public or other employees.

10. Substance Abuse Professional (SAP) is a licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.

11. Unreasonable delay means a delay of the testing procedure for a period of time, as defined by the collection site or laboratory personnel, which would render the test useless or inaccurate.

E. EDUCATION

Pursuant to the provisions of the Drug-Free Workplace Act of 1988, the City will establish an education and training program to assist employees to understand and avoid the perils of drug and alcohol abuse. The City will use this program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The City's program will inform employees about:

a) The dangers of drug and alcohol abuse in the workplace;
b) The City's policy of maintaining a drug- and alcohol-free workplace;
c) The availability of drug and alcohol treatment, counseling and rehabilitation programs; and
d) The penalties that may be imposed upon employees for drug and alcohol abuse violations.

As part of its program, the City shall provide educational materials that explain the City's philosophy regarding drug and alcohol use, requirements of applicable regulations, and the City's Substance Abuse policy and procedures. Employees shall be provided with information concerning:

a) The effects of alcohol and drug use on an individual's health, work and personal life;
b) Signs and symptoms of an alcohol or drug problem; and
c) Available methods of intervening when an alcohol or drug problem is suspected, including confrontation and/or referral to management.

In addition to the training above, the City shall provide training to supervisors who may be asked to determine whether reasonable suspicion exists to require an employee to undergo drug and/or alcohol testing. The supervisory training shall include training on alcohol abuse and drug use. This training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol abuse and drug use. Supervisors who have not received the initial training described above will not be asked to determine whether reasonable suspicion exists to initiate drug/alcohol testing. However, these supervisors may request another supervisor who has undergone this training to make the determination

F. EMPLOYEE RIGHTS AND RESPONSIBILITIES

1. The City shall not require an employee to undergo a drug and/or alcohol test unless there is reasonable suspicion to indicate the employee is under the influence of a substance which causes the employee to pose a hazard to the safety of the employee, the public, or other employees. However, an employee may be required to undergo a re-examination drug and/or alcohol test as provided in Section J.2. of this policy.

2. It is the employee's responsibility to report for duty, able to perform his/her job safely and effectively, unimpaired by drugs, alcohol, or any other intoxicating substance.

3. Employees are responsible for:
   a) Obtaining from their health care provider adequate information about the effects of prescription medication on job performance; and
   b) Promptly notifying his/her supervisor of same; OR
   c) Promptly notifying his/her supervisor of the effects on job performance of over-the-counter medication being taken.

4. Employees are prohibited from possessing, manufacturing, using, distributing, or selling alcohol, controlled substances or drug paraphernalia on City premises or while on duty. For purposes of this policy, "on duty" time includes meal and break periods during the work day.

5. Employees are encouraged to request assistance with drug use and/or alcohol abuse problem(s), with the understanding that a voluntary request for assistance will not be used as the basis for disciplinary action. However, a request for assistance shall not be used to exempt employees from job performance requirements.

6. In accordance with the Drug-Free Workplace Act of 1988, an employee who is convicted of a violation of a criminal drug statute shall notify the City's Human Resources Director no later than 5 days after such conviction. For purposes of this policy, a criminal drug statute means a

criminal law involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.

7. Employees have the right to challenge the results of any tests and any discipline imposed in accordance with the Grievance procedure of their labor contract. Employees who dispute the results of a drug test may have their split sample tested at their cost at another DHHS-certified laboratory. This request must be made within 72 hours of notification of a positive drug test result by the MRO.

8. Employees having knowledge of another employee's condition/behavior that poses a potential threat to the safety of employees and/or the public are to notify their immediate supervisor.

9. Employees who are required to undergo a drug and/or alcohol test will be provided transportation to the collection facility and shall also be offered transportation home by a Department representative. If suspected of being impaired, the employee will be advised against driving him/herself home or otherwise operating a motor vehicle.

10. Employees may have a Guild representative present at the collection facility. However, the lack of Guild representation shall not cause unreasonable delays in the collection process.

11. Employees shall fully cooperate in the collection process.

G. DETECTION

1. Reasonable Suspicion. Once the steps outlined in the attached "Supervisor's Guidelines" are followed, an employee may be required to undergo a drug and/or alcohol test when reasonable suspicion exists to indicate that the employee is under the influence of a prohibited substance.

2. The decision to conduct a drug and/or alcohol test shall be made by the reporting supervisor and the highest-ranking supervisor on duty. For purposes of this policy, acting officers are considered supervisors. The higher of the two supervisors will make timely notification of the situation to the department head or the department head's management level designee, and the Human Resources Director his/her designee. Refusal to submit to a drug and/or alcohol test authorized by this policy shall be grounds for discipline, up to and including discharge.

3. Searches

   a) The Department has the right to search, without employee consent, City-owned property to which the employee has no reasonable expectation of privacy. These areas may include office space, desks,

file cabinets and the like, that several different individuals may use or access. A reasonable expectation of privacy shall exist in personal containers marked and locked inside an Officer‘s desk drawer.

b) If the employee’s consent to search is first obtained, the Department shall have the right to search (1) City-owned property to which the employee has a reasonable expectation of privacy, and (2) private property belonging to the employee, such as a personal equipment bag, brief case, or private vehicle. If such consent is given, the employee shall have the right to Guild representation during the search. City-owned areas where the employee has a reasonable expectation of privacy are the employee’s personal lockers.

c) If the Department requests the employee’s consent to search, the Department shall first inform the employee that:

(1) The Department has reasonable suspicion to suspect that evidence exists within the area or item to be searched which could be used in disciplinary and/or legal proceedings against the employee; and

(2) The employee has the right to Guild representation during the search if consent is given; and

(3) Refusal to give consent to search will not be considered by the Department to be an admission of guilt or cause for disciplinary or retaliatory action.

d) An employee’s refusal to give consent to search shall not preclude the Department from contacting the police authority having jurisdiction to conduct a search according to and in the manner authorized by law.

4. Possession, manufacture, distribution or sale of alcohol, drugs, or drug paraphernalia on City property or during work time is expressly prohibited and may provide a basis for discipline under department rules and regulations, but shall not in and of itself constitute cause for drug and/or alcohol testing under this policy. For purposes of this policy, work time includes meal and break periods or any other time when the employee is on paid status. Alcoholic beverages that are properly stored, unopened, in the trunk of an employee’s vehicle will not be considered a violation of this policy. Any illegal drugs and/or drug paraphernalia coming into the City’s possession will be turned over to the police authority having jurisdiction.

H. TESTING PROCEDURES

1. Drug and alcohol testing shall be conducted in a manner designed to protect employees, protect the integrity of the testing process, safeguard

the validity of test results, and ensure that those results are attributed to the correct employee. The City and Guild agree that if the security of the urine or blood sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose.

2. Employees who are required to undergo a drug and/or alcohol test will be provided transportation to the collection facility and shall also be offered transportation home by a Department representative.

3. Employees may have a Guild representative present at the collection facility. However, the lack of Guild representation shall not unreasonably delay the collection process.

4. Employees required to undergo a drug and/or alcohol test shall cooperate fully in the collection process and complete all required forms and documents. These forms may include a Consent/Release form and an Interview form.

5. Urine samples for drug testing shall be collected at a collection site designated by the City and Guild using the split sample collection method. The split sample is made available if re-testing becomes necessary. Any specimen that tests positive for drugs shall be retained in long-term frozen storage by the laboratory conducting the analysis for a minimum of one year.

6. If medical personnel at the collection site have reason to believe that an adulterated or substituted sample has been provided (or that the employee may alter or substitute the sample), the employee will be required to submit a second sample (or the original sample). This collection shall be under the direct observation of a same gender collection site staff person. The employee will be required to provide the additional or original sample during an observed collection prior to leaving the collection site.

7. An approved chain of custody procedure shall be followed in the administration of all drug tests. Urine samples shall be sealed and initialed by the employee and a witness.

8. Urine samples shall be promptly sent to and tested by a laboratory that is certified to perform drug tests by the Department of Health and Human Services (DHHS). Initial drug screening shall be conducted using an accepted immunoassay method. All positive tests shall be confirmed using the gas chromatography/mass spectrometry (GC/MS) drug testing method. The laboratory shall test for only the substances and within the limits as follows for the initial and confirmation tests, as provided within NIDA standards, unless this section is modified by amended agreements provided for in Section L.3.:

a) Initial Tests

(1) Alcohol	.02 g/210 ml expired air
(2) Marijuana metabolites	50 ng/ml
(3) Cocaine metabolites	300 ng/ml
(4) Opiate metabolites (1)	300 ng/ml
(5) Phencyclidine	25 ng/ml
(6) Amphetamines	1000 ng/ml

(7) If immunoassay is specific for free morphine the initial test level is 25 ng/ml.

b) Confirmatory Test

(1) Alcohol	.02 g/210 ml expired air
(2) Marijuana metabolites	15 ng/ml
(3) Cocaine metabolites	150 ng/ml
(4) Opiates	
(a) Morphine	300 ng/ml
(b) Codiene	300 ng/ml
(c) Phencyclidine	25 ng/ml
(d) Amphetamine	500 ng/ml
(e) Methamphetamine	500 ng/ml

9. Alcohol shall be tested by means of Breathalyzer machine currently in use (B.A.C.) or future equipment which may supersede the B.A.C. machine (but excludes the P.B.T. device). Breathalyzer alcohol tests shall be conducted in private at the collection site designated by the City and the Guild. The testing shall follow the protocols established for criminal investigations, including the requirement of two breath samples within the proper variance. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test shall be performed to confirm the results of the initial test at the election of the employee. The confirmatory test shall also use a 0.02 blood alcohol concentration level to measure a positive test. If the Employee refuses to take the second confirmatory test, the first test will be used to determine alcohol concentration.

10. Upon written request by the employee, the City shall make one legible copy of the results of his/her drug and/or alcohol tests available to the employee.

11. All information collected in the process of conducting a drug and/or alcohol test shall be treated as confidential information. These files shall be separate from the personnel file and sealed and maintained in a secure medical file.

12. Employees who refuse or fail to fully cooperate in the collection process may be subject to discipline up to and including discharge. Examples of a

failure to fully cooperate include such actions as, refusing to sign the necessary consent/release forms; delaying and/or obstructing the collection process; failing to provide the specimen for testing; and attempting to substitute or adulterate a specimen. The foregoing list is not intended to be an all-inclusive list. City management shall, in all circumstances, have the final right to determine the appropriate level of discipline depending on the specific circumstances, the employee's performance record, and any other pertinent facts.

I. REPORTING OF RESULTS

1. The City shall have a designated Medical Review Officer (MRO) who must be a licensed physician with knowledge of substance abuse disorders and familiar with the characteristics of the laboratory tests (sensitivity, specificity, and predictive value). The role of the MRO will be to review and interpret the positive drug test results.

2. Alcohol Test Results. Laboratory or collection site personnel will report the test results to the City's Human Resources Manager, or his/her designee. The Human Resources Director will promptly advise the appropriate Department Head of these test results. If the confirmation test meets or exceeds 0.02 g/210 ml expired air, the laboratory or collection site personnel shall report to the Human Resources that the employee tested positive for alcohol. If the test result is below 0.02 g/210 ml expired air, the laboratory or collection site personnel will report to the Human Resources Director that the employee tested negative for alcohol.

3. Drug Test Results. Laboratory personnel will advise the Human Resources Director, or his/her designee directly of all negative drug test results. The Human Resources Director will promptly advise the appropriate Department Head of these test results.

   The laboratory will advise only the MRO of any positive drug test results. The MRO must examine alternate medical explanations for any positive test results. This process shall include an interview with the affected employee and a review of the incident file, employee's medical history and any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Employees involved in this step of the examination shall make themselves and any relevant records they wish to present available to the MRO within 48 hours after request.

   After reviewing the incident file and interviewing the employee, the MRO shall report to the City's Human Resources Director or his/her designee the name of the employee, and whether a positive test of a prohibited

substance has been verified. The Human Resources Director shall promptly notify the appropriate Department Head of the test result.

4. Rehabilitation Program. If the tested employee is referred on to rehabilitation or treatment, the MRO is authorized to communicate specific results to the Substance Abuse Professional (SAP) or counselor overseeing the employee's treatment program.

5. Grievance. The laboratory and/or the MRO will be authorized to release specific test results to the City and the Guild in cases of a grievance and/or a legal challenge.

J. REHABILITATION AND RETURN TO DUTY

1. The City recognizes that substance abuse can be successfully treated, enabling an employee to return to satisfactory job performance. Employees who are concerned about their own drug use and/or alcohol abuse are encouraged to voluntarily seek assistance through the City's EAP. All such voluntary requests for assistance will remain confidential.

2. Any employee who tests positive for a prohibited substance or is otherwise required to submit to a drug and/or alcohol test by this policy shall be medically evaluated, counseled, and treated for rehabilitation as recommended by the SAP. If the employee is required to participate in such a program, his/her reinstatement or continued employment shall be contingent upon:

   a) Successful completion of the program and remaining drug- and/or alcohol-free for its duration; and
   b) Passing a return to duty drug and/or alcohol test as recommended by the SAP; and
   c) Obtaining a final release for duty by the SAP (the final release for duty may be preceded by a temporary release for duty).

3. Employees who successfully complete a rehabilitation program and are released for duty, in addition to being subject to reasonable suspicion testing at any time, will be subject to follow up testing, which involves unannounced drug and/or alcohol testing at least 6 times during the following 24 months. The SAP will determine the dates for these drug and/or alcohol tests. These test dates will be communicated to the Human Resources Director who will inform the employee of those dates. The appointment for the collection will be made in advance and maintained in a confidential manner by the Human Resources Director until the day of the collection. The Human Resources Director shall provide the supervisor with adequate notice of the test dates. The employee will not be notified until just prior to the testing. The employee may request a

Guild representative to accompany him/her to the collection site, provided the sample is collected within two (2) hours following notification.

4. Upon notification of selection for the follow up tests, the employee must proceed directly to the collection site for testing. At this time, the employee will receive an Employee Notification of Scheduled Drug/Alcohol Test letter from the designated contact. The employee will be required to sign this letter and a Consent/Release form. The employee must present photo identification to collection site personnel. The Human Resources Director or his/her designee will retain a copy of all the forms.

5. Refusing to submit to a return to duty or a follow up test will be considered grounds for discharge. If the selected employee fails to report to the collection site within 2 hours of notification of testing, this will also be considered grounds for disciplinary action up to and including discharge.

6. If an employee voluntarily enters a drug/alcohol rehabilitation program, it shall not be considered an offense under this policy. Such employees are, however, still subject to this policy and may be required to undergo a drug and/or alcohol test if reasonable suspicion exists.

7. All appointments with the SAP may be scheduled as vacation, or leave without pay with prior approval of the supervisor, Department Head, or management designee. The SAP will contact the Department Head or his/her designee to make a recommendation as to the need for further treatment. Once vacation leave is exhausted, the employee will be placed on leave without pay. The Department Head or his/her management level designee shall maintain confidentiality regarding the reason for the leave.

8. The employee will be responsible for all costs, not covered by insurance, which arise from such treatment.

9. Once an employee has tested positive for substance abuse and the MRO has notified the City, the employee will be placed on leave status (vacation, holiday leave bank, compensatory time or leave without pay). The employee will remain on leave until s/he has a release for duty from the SAP <u>and</u> has passed a return to duty drug and/or alcohol test as recommended by the SAP. The release for duty may be a temporary or final release as described below depending on the circumstances.

10. <u>Temporary Release for Duty</u>. The SAP shall sign a temporary release for duty indicating that the employee can satisfactorily return to regular work assignment and continue treatment on an outpatient basis. The temporary release for duty shall indicate the length of time such release is valid not to exceed 4 months. The employee must present a final release for duty on

or before the expiration date of the temporary release. A temporary release shall include follow up testing. The employee must present both the temporary and final release for duty to his/her supervisor.

11. Final Release for Duty. A final release for duty shall be signed by the SAP indicating that the employee has:
    a) Satisfactorily completed treatment and follow up testing; or
    b) Does not require treatment at this time, and the employee may return to regular work assignment without restrictions. Failure to provide a final release for duty to the supervisor may result in disciplinary action up to and including discharge.

12. Once an employee provides the supervisor with the final release for duty the employee shall be returned to his/her regular duty assignment. After three years of no further violation of this policy, the employee's personnel file shall be purged of any reference to the incident, including any disciplinary actions taken, provided, however, records may be retained beyond 3 years when retention is required by applicable law. Should applicable law require retention of records past 3 years, and if allowed by such law, such records shall be sealed and may not be opened without consent of the employee.

13. If an employee tests positive during the 24-month period following rehabilitation on a reasonable suspicion drug or alcohol test, the employee will be subject to discipline, up to and including discharge.

14. If an employee tests positive during the 24-month period following rehabilitation on a random drug or alcohol test, the employee will be placed on leave without pay during the period the SAP makes a decision on the need for further treatment. The employee will remain on leave without pay during any treatment period and until they have provided the employer with a return to duty form signed by the SAP. If such an employee completes the return to duty process and again tests positive on either a reasonable suspicion or random drug or alcohol test, they shall be subject to discharge.

K. RANGE OF CONSEQUENCES

1. Employees who violate this policy will be subject to a range of disciplinary consequences depending upon the severity of the infraction and/or the employee's past performance record. In all cases, the City reserves the right to determine the appropriate disciplinary measures, which may be more or less severe than those included in this guideline. The following list of actions and the related consequences is intended as a guideline only, and further, is not intended to be an all-inclusive list of possible disciplinary consequences.

2. If an employee has an alcohol concentration of 0.02 or greater in any authorized alcohol test, and/or tests positive for drugs and/or their metabolites in any authorized drug test and it is the employee's *first offense*, then s/he shall be referred to the EAP for counseling and/or completion of a substance abuse treatment or rehabilitation program. However, if an employee violates a work rule in conjunction with failing a drug and/or alcohol test, then s/he may be subject to disciplinary action. The City shall have the right to take disciplinary action, up to and including discharge, based on the severity of the incident and/or the employee's past record.

3. Employees will be subject to disciplinary action, up to and including discharge, for any of the following infractions:
   a) Refusal to submit to an authorized drug and/or alcohol test. Refusal to submit to testing means that the employee fails to provide an adequate urine or breath sample for testing without a valid medical explanation after s/he has received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, refusal or failure to provide necessary documentation to the MRO when requested, and/or submission or attempted submission of an adulterated or substituted urine sample.

   b) Drinking alcoholic beverages or using drugs while on duty, on City property, in City vehicles, or during breaks and/or meal periods during work hours.

   c) Unlawful manufacture, distribution, dispensation, possession, concealment or sale of any controlled substance, including an alcoholic beverage, while on duty, on City property, in City vehicles, or during breaks and/or meal periods during work hours.

   d) Any criminal drug statute conviction and/or failure to notify the City of such conviction within 5 days.

   e) Failure to complete a counseling, treatment, or rehabilitation program as prescribed by the SAP.

   f) Testing positive on a return to duty.

   g) Any two failures on follow up drug and/or alcohol testing during the 24 month following rehabilitation.

   h) Failure to report to a collection site within two (2) hours of notification for return to duty or follow up testing.

i) Second offense – alcohol concentration of 0.02 or greater in any reasonable suspicion authorized alcohol test, and/or testing positive for drugs and/or their metabolites in any authorized reasonable suspicion drug test.

j) Employee's failure to participate in the temporary and/or final releases for duty testing in a timely manner.

4. Although the foregoing infractions will ordinarily result in discharge regardless of the employee's position, the City reserves the right to consider extenuating circumstances and to impose lesser discipline when such action is deemed appropriate.

L. OTHER

1. The City shall pay for initial costs of the substance abuse examination including the expenses of the Medical Review Officer.

2. This policy was initiated at the request of the City and the Employer shall assume sole responsibility for the administration of this policy. The City agrees to indemnify and hold the Guild and its officers harmless from any and all claims of any nature (except those arising from the negligence of the Guild and/or its officers) arising from the Employer's, laboratories', or Medical Review Officer's implementation of this policy.

3. The parties recognize that during the life of this agreement there may be improvements in the technology of testing procedures which provide more accurate testing for on-the-job impairment or which constitute less invasive procedures for the employees. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree, the issue will be submitted to impasse procedures under RCW 41.56.

4. If any provision of this Agreement shall be held invalid by operation of law, or any Tribunal of competent jurisdiction, or if compliance or enforcement of any provision should be restrained by such Tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held to be invalid, and will remain in full force and effect, and the parties, upon request of one to the other shall initiate immediate negotiations for the purpose of arriving at a mutually satisfactory replacement of such provision.

5. The following attachments shall be a part of this Policy: Supervisor's Guidelines, Report Form, Interview Form, Consent/Release Form.

M. SUPPORTIVE DOCUMENTS:

POLICIES AND PROCEDURES FOR DRUG/ALCOHOL TESTING AND TREATMENT SUPERVISOR'S GUIDELINES

The primary goal of the Substance Abuse Policy is to provide a working and service delivery environment free from the effects of alcohol/drug abuse. The supervisor's role is to identify employees who may be a threat to the safety and welfare of the employee, other employees, and the public by being under the influence of drugs and/or alcohol while on-duty. Such employees *must* be removed from the workplace.

Follow the steps below to ensure that you are proceeding correctly. It is important that proper procedures are followed to preserve the privacy of the individual and to comply with legal and contractual requirements.

1. Contact your appropriate command staff and explain the situation.

2. Your supervisor will:
   a) Advise you of what appropriate action to take regarding your status as the shift supervisor.
   b) Notify the Chief of Police and the Human Resources Director (or their designees) in a timely manner, then join you at your location to assist you and corroborate your observations during the interview.

3. Prepare yourself for an interview with the employee by completing the Report Form. Refer to Attachment 1 for descriptions of physical and behavioral signs which may indicate substance abuse.

4. After your supervisor has arrived, advise the employee you wish to interview him/her and provide a private location to conduct the interview.
   a) Be sure to advise the employee that you suspect him/her of being under the influence of a prohibited substance (defined in the policy) and that s/he may have a Guild representative present during the interview.
   b) Do not argue with a belligerent or threatening employee. Advise him/her that his/her cooperation during the interview and testing procedure (if warranted) are direct orders and that continued disruptive behavior, preventing completion of the interview, shall be the same as refusal to submit to testing and shall be cause for discipline (cooperation *does not* mean that any employee must give facts or evidence which may incriminate himself/herself).

c) Complete the Interview Form with your supervisor.

5. Review the relevant information with your supervisor. If your supervisor decides that the test is required, relieve the employee of duty, with pay, during the course of the exam and MRO review.

6. Have the employee sign a Consent/Release Form.
   a) Read the form to the employee and direct him/her to sign it. Do not alter the form in any way.
   b) Be sure, if the employee has declined Guild representation, that s/he understands that s/he may choose to have a Guild representative accompany him/her to the testing facility.
   c) If the employee refuses to sign the form, advise him/her that this is a direct order and that failure to comply shall be cause for discipline.
   d) Issue a second order for the employee to sign the consent form. If s/he still refuses, relieve the employee of duty, with pay, explain that disciplinary action may follow. You or your supervisor will transport the employee home. (No employee suspected of impairment from alcohol/drug abuse shall be allowed to drive.)

7. Your supervisor shall transport the employee to the testing facility, and wait at the testing facility until the testing is completed.

8. When the exam is completed, your supervisor will:
   a) Reconfirm with the employee that s/he has been relieved of duty, with pay, and
   b) Advise the employee that s/he will be contacted by the MRO to review the results (if positive), and
   c) Advise the employee that s/he will be contacted by the department advising him/her how to return to duty, and
   d) Drive or arrange transportation for the employee home. Do not return the employee to a City facility.

9. Once the employee has been sent home, your supervisor will:
   a) Gather copies or originals of the Report Form, Interview Form, Consent/Release Form, and any other written notes or reports and forward them to the Police Chief and Human Resources Manager.

City of Kirkland police Department
Substance abuse Policy
CONSENT/RELEASE FORM

I consent to the collection of urine, a blood and/or expired air sample by _____ and its analysis by _____ for those drugs, alcohol, and or controlled substances specified in the Collective Bargaining Agreement pursuant to the Substance Abuse Policy agreed to between the City of Kirkland and the Kirkland Police Guild.

The laboratory administering the tests may release the results to the Medical Review Officer (MRO), who shall release his/her conclusions to the employer after review and interpretation. If I test positive, I agree to make any requested records and myself available to the MRO within 48 hours of such request. The information provided to the employer from the MRO shall be limited to whether the tests were confirmed positive or negative, and no other test results will be released, except as provided herein, without my written consent. The laboratory will advise the employer's representative whether the initial alcohol screen is positive or negative.

I understand that I have the right to my complete test results and that the laboratory will preserve the sample for at least one year. If I test positive, I have the right to have the split sample tested at my expense at a second DHHS-certified laboratory of my choice. I understand that I must request such test of the split sample within 72 hours of notification of a positive test result by the MRO.

I understand that the Employer is requiring me to submit to this testing as a condition of my employment and that if I tamper with, alter, substitute, or otherwise obstruct or fail to cooperate with the testing process, I will be subject to disciplinary action up to and including termination.

I further understand that a confirmed positive test will result in actions taken by the employer and for the employee which are consistent with the City's policies and procedures for substance abuse testing and treatment.

I understand that the employer will administer the Policy consistent with federal and state constitutional and statutory requirements. Also, by signing this consent form, I am not waiving the right to challenge any confirmed positive test result and any Employer action based thereon. In order to pursue any challenge related to this test, I will, however, be required to authorize the laboratory and MRO to release to my Employer and the Guild any information relating to the test or test results. Further, I understand that my employer may require that I participate in a treatment or rehabilitation program. If required to do so, I authorize the laboratory and MRO to release any information relating to the test or test results to the Substance Abuse Professional (SAP) or treatment counselor. My signature below indicates my consent for release of this information.

Employee Signature_____**Date**_____

City of Kirkland police Department
Substance abuse Policy
REPORT FORM

This form must be filled out prior to any drug/alcohol testing. Review Supervisor's Guidelines before completing this form. The information contained on this form is confidential and shall be viewed only by necessary supervisory/managerial employees, the testing facility, MRO, and the employee being interviewed/tested. When this form is completed and signed, make one copy of the form and distribute as follows: Original to Police Chief, Copy attached to consent form.

Employee Name:_____

Speech: _____

Dexterity: _____

Standing:_____

Walking: _____

Judgment: _____

Decision-making: _____

Appearance (eyes, clothing, etc.):_____

Odor: _____

Other: _____

Location where these were observed:_____

Time of observation:_____

Witnesses:_____

Supervisor's Signature_____ Date / Time: _____

City of Kirkland police Department
Substance abuse Policy
INTERVIEW FORM

Name of Employee _____

I understand that I am entitled to Guild representation during this meeting and during any subsequent meetings or at testing facilities. I understand that I am being ordered to answer these questions and that if I refuse to answer these questions I am subject to discipline up to and including termination. I do or do not (please circle one) want a representative at this time. I understand that I am entitled to Guild representation at any time whether I choose to have one now or not.

Employee signature: _____

1. I (we) have noticed (describe behavior/evidence)_____
   _____
   _____
2. Do you have any explanation?_____
   _____
   _____
   _____
3. Are you using any type of illicit drug or alcohol?_____
   If yes, what?_____
   When did you take it? _____
   Where did you take it?_____
   How much did you take?_____
   Do you have any drugs/alcohol in your possession at work? ____
   (if yes, get agreement to confiscate)

Based on the interview and the completed Report Form, I believe the employee should be tested for drugs and/or alcohol.

Dated _____
Supervisor (position)_____ Agree ___ Don't Agree
Witness* (position)_____ Agree ___ Don't Agree

*Witness is an individual other than the designated Guild representative

City of Kirkland police Department
Substance abuse Policy
Exhibit 1

Listed below are some behavioral descriptions which may guide the supervisor in determining whether an employee is "under the influence" of a prohibited substance. There is no one behavior which is unique to drugs/alcohol. Almost every behavior/sign can also be associated with medical or emotional problems such as high blood pressure, diabetes, thyroid disease, psychiatric disorders, epilepsy, head injury, emotional problems, stress, etc. Even so, a supervisor usually knows the employees "normal" behavior and must try and distinguish alcohol and/or drug abuse from other problems.

Supervisors should be aware that the following physical, behavioral, or performance symptoms may indicate drug/alcohol abuse:

a) Either very dilated or constricted pupils

b) Hyperactivity

c) Unsteady gait

d) Irritability

e) Slurred speech

f) Anxiousness

g) Wide mood swings

h) Odor of alcohol

i) Overreaction to criticism

j) Staggering

k) Listlessness

l) Illogical speech and thought process

m) Unusual/abnormal behavior

n) Poor judgment

o) Avoiding others/withdrawal

p) Sudden increase in absenteeism

Council Meeting: 10/04/2011
Agenda: Approval of Agreements
Item #: 8. g. (2).

CITY OF KIRKLAND
Police Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3400
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Olsen, Police Chief
Robert Balkema, Corrections Lieutenant

Date: September 19, 2011

Subject: INTERLOCAL AGREEMENT FOR JAIL SERVICES

RECOMMENDATION**:**

City Council adopt the attached resolution authorizing the City Manager to sign an amendment to interlocal agreement between the City of Marysville and the City of Kirkland for jail services.

BACKGROUND DISCUSSION:

The Kirkland Police Department is requesting that Council authorize the City Manager to enter into the attached amendment to interlocal agreement to provide housing for City of Kirkland inmates at the City of Marysville jail. Under the terms of the agreements, the City of Kirkland will only be obligated to pay for the specific time an inmate is housed in these facilities. If the City does not use the bed space, the City does not pay for it. The Police Department is requesting this agreement to provide the City with more options for short and long term planning.

The City has had a jail contract with the City of Marysville since 2006 and the current contract expires on December 31, 2013. The attached amendment to the current contract is a technical change only. The City of Marysville jail has changed its ability to house inmates from 30 days to 90 days and because the current contract language specifically says "Prisoners may not be incarcerated in the Marysville Jail longer than thirty days" an amendment is necessary.

In conclusion, this contract amendment creates bed space alternatives for 2011 and beyond to help keep Kirkland jail costs down.

Attachments: Resolution
Amendment to Interlocal Agreement with the City of Marysville

RESOLUTION R-4893

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND CITY OF MARYSVILLE FOR JAIL SERVICES.

WHEREAS, the City of Kirkland and City of Marysville currently have a jail services interlocal agreement which enables the City of Kirkland secure the use of additional jail bed capacity; and

WHEREAS, the City of Marysville has requested a minor amendment to the interlocal agreement which the City of Kirkland is willing to accept; and

WHEREAS, Chapter 39.34 RCW authorizes the parties to enter into an interlocal cooperation agreement to perform any governmental service, activity or undertaking which each contracting party is authorized by law to perform;

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

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City of Kirkland an amendment to the current interlocal agreement substantially similar to that attached as Exhibit "A", which is entitled "Second Amendment to Interlocal Agreement for Jail Services – Kirkland Amending Paragraph 3 Section B (3 B) Relating to 90 Days Detention Facility Limits Effective May 24, 2011."

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

AFTER RECORDING RETURN TO:

City of Marysville
1049 State Avenue
Marysville, WA 98270

Second Amendment to Interlocal Agreement
for Jail Services – Kirkland
Amending Paragraph 3 Section B (3 B)
Relating To 90 Days Detention Facility Limits
Effective May 24, 2011

THIS AMENDMENT TO INTERLOCAL AGREEMENT FOR JAIL SERVICES ("Amendment") is made and entered into by and between the CITY OF MARYSVILLE ("Marysville"), and the CITY OF KIRKLAND ("Kirkland").

WHEREAS, on October 6, 2006 Marysville and Kirkland entered into an Interlocal Agreement for Jail Services hereafter referred to as the "Agreement" recorded on November 9, 2006 with Snohomish County ; and

WHEREAS, the parties entered in to the First Amendment to the Interlocal Agreement Effective January 1, 2010; and

WHEREAS, the City of Marysville adopted Ordinance 2859, effective May 23, 2011, amending Marysville Municipal Code Chapter 2.45 relating to Jail/Detention Facilities; a "Detention Facility" being a 90 jail day facility by definition pursuant to RCW 70.48.020 (4).

> RCW 70.48.040 (4) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed <u>ninety days.</u>

WHEREAS, the parties wish to amend Paragraph 3 Section b (3 b) of the Interlocal Agreement for Jail Services to utilize the 90 day facility limit instead of the 30 day limit.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, Marysville and Kirkland mutually agree as follows:

1. **Paragraph 3 ACCEPTANCE OF PRISONERS, Section b (3 b)** of the Agreement shall be amended to read as follows

b. Prisoners may not be incarcerated in the Marysville Jail longer than ~~thirty (30)~~ <u>ninety (90)</u> days or contrary to any federal or state statutes or regulations or constitutional requirements for the Marysville Jail. Should an inmate serve his/her

~~30~~-90 day sentence in the Marysville Jail and still have additional days of jail time, Kirkland will have the option of transporting their inmates to another facility or have Marysville transport with reimbursement by Kirkland of Marysville's actual costs. Should transportation be required for Kirkland inmates to appear in other than the Marysville Municipal Courts, transportation will be the responsibility of Arlington

2. Except as provided herein, all other terms and conditions of the Interlocal Agreement for Jail Services recorded on November 9, 2006 and all Amendments thereto shall remain in full force and effect unchanged. This Second Amendment to Interlocal Agreement for Jail Services shall be effective May 24, 2011.

3. APPROVALS AND FILING. Each party shall approve this Agreement by resolution, ordinance or otherwise pursuant to the laws of the governing body of said party. The attested signature of the officials identified below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Snohomish County Auditor's office or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source pursuant to RCW 39.34.040.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 2011.

By_____
KURT TRIPLETT, City Manager

By_____
JOHN NEHRING, Mayor

DATE:_____

DATE:_____

APPROVED as to form:

_____
ROBIN S. JENKINSON, City Attorney

APPROVED as to form:

_____
GRANT K. WEED, City Attorney

DATE:_____
Attest:

_____
KATHI ANDERSON , City Clerk

DATE:_____
Attest:

_____
APRIL O'BRIEN, Deputy City Clerk

Council Meeting: 10/04/2011
Agenda: Other Business
Item #: 8. h. (1).

CITY OF KIRKLAND
City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Robin Jenkinson, City Attorney

Date: September 13, 2011

Subject: ADOPTION OF PUBLIC DEFENSE STANDARDS

RECOMMENDATION:

The City Council approves the attached resolution adopting standards for the provision of public defense services to the City of Kirkland.

BACKGROUND DISCUSSION:

The City of Kirkland prosecutes misdemeanor offenses that are committed by adults within the Kirkland city limits. The misdemeanor offenses are filed in the Kirkland Municipal Court.

In accordance with the 6th Amendment of the United States Constitution, and Article I, Section 22 of the Washington Constitution, persons charged with misdemeanors who are deemed indigent are entitled to the effective assistance of counsel at public expense. Chapter 10.101 RCW establishes a process for determining eligibility for public defense and requires that municipalities adopt standards for the delivery public defense services.

The City currently contracts with a law firm located within the city limits of Kirkland for the provision of public defense services. The City Manager's Office manages the contract. The law firm with which the City contracts dedicates the majority of its practice to misdemeanant public defense and the firm's attorneys have extensive experience representing misdemeanant defendants from arraignment through appeal.

The City prides itself on providing the highest quality public defense at a reasonable cost. In furtherance of this effort, and in accordance with Chapter 10.101 RCW, the attached resolution has been prepared for the Council's consideration.

In 2006, the City Council approved Resolution R-4600 adopting the public defense standards ("Standards") then endorsed by the Washington State Bar Association ("WSBA"). The WSBA endorsed updated versions of the Standards in 2007 and 2011. The Standards endorsed by the WSBA include numerical caseload limits. The Washington State Association of Municipal Attorneys, Association of Washington Cities, and Washington State Association of Counties all opposed the inclusion of numerical limits, urging that experienced, skilled attorneys may competently handle a larger volume of cases; particularly simple misdemeanors. Imposing such limits would increase the cost. The attached Resolution does not include numerical case limits, but does address caseloads. The "Standards" endorsed by the WSBA currently have the status of guidelines, but would become court rules if adopted by the Washington Supreme Court.

RESOLUTION R-4894

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELATING TO STANDARDS FOR THE PROVISION OF PUBLIC DEFENSE SERVICES.

WHEREAS, the City of Kirkland prosecutes misdemeanor offenses that are committed by adults within the Kirkland city limits; and

WHEREAS, the misdemeanor offenses are filed in the Kirkland Municipal Court; and

WHEREAS, in accordance with the 6th Amendment of the United States Constitution, and Article I, Section 22 of the Washington Constitution, persons charged with misdemeanors who are deemed indigent are entitled to the effective assistance of counsel at public expense; and

WHEREAS, Chapter 10.101 RCW establishes a process for determining eligibility for public defense and requires that municipalities adopt standards for the delivery of public defense services; and

WHEREAS, the City currently contracts with a law firm located within the city limits of Kirkland for the provision of public defense services; and

WHEREAS, the firm that the City contracts with dedicates a majority of its practice to misdemeanant public defense and the firm's attorneys have extensive experience representing misdemeanant defendants from arraignment through appeal; and

WHEREAS, the City prides itself in providing the highest quality public defense at a reasonable cost; and

WHEREAS, in furtherance of this effort, and in accordance with Chapter 10.101 RCW, the City desires to adopt standards for the delivery of public defense services;

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

SECTION 1. – The following standards apply to all public defense services provided to the City of Kirkland.

Definitions

A. Attorney. As used in these standards, the term "attorney" shall mean an attorney under contract with the City of Kirkland for the provision of public defense services, and shall also mean the law firm

for which the attorney works. Therefore, these standards shall also apply to law firms who are under contract with the City for the provision of public defense services.

B. Defendant. The term "defendant" shall mean a person who has been charged with a misdemeanor offense in the Kirkland Municipal Court, and who is represented by an attorney as the term attorney is defined in these standards.

Standard 1: Compensation

The City's contract for public defense services shall provide for payment at a rate that is competitive for like services in the state of Washington and in the North King County area in particular.

No contract for public defense services shall require the attorney to pay any compensation to another attorney in the event the attorney is disqualified from representing a defendant due to a conflict of interest.

Standard 2: Duties and Responsibilities of Counsel

Attorneys shall provide services in a professional and skilled manner consistent with the minimum standards of the Washington State Bar Association, Washington's Rules of Professional Conduct, applicable case law, the Constitutions of the United States and Washington, and the court rules that define the duties of counsel and the rights of defendants. At all times during the representation of a defendant, the attorney's primary responsibility shall be to protect the interests of the defendant.

Standard 3: Caseload Limits, Types of Cases, and Limitations on Private Practice

Attorneys shall maintain a caseload such that he or she can provide each and every defendant effective assistance of counsel as guaranteed by these standards. The attorney shall be mindful of the number of open cases for which he or she is counsel of record, the type or complexity of those cases and any prospective cases, his or her experience, the manner in which the Public Defense Standards jurisdiction processes cases, and any private practice in which he or she is engaged.

When contracting with an attorney, the City may, if appropriate, limit the number of cases an attorney may handle. Such limitation may be based upon the experience of the attorney, the training the attorney has received, the complexity of the cases being assigned the attorney, defense services the attorney may provide to other municipalities, the scope and extent of the attorney's private practice, justified complaints that may have been made against the attorney, and any other relevant factors.

Standard 4: Responsibility for Expert Witnesses and Investigative Services

Attorneys shall be free to retain experts and investigators of the attorney's choosing, and may apply to the court for such services pursuant to applicable court rules.

Standard 5: Administrative Expenses and Support Services

Any contract for the provision of public defense services should provide for or include administrative costs and support costs. Attorneys may use qualified paralegal, secretarial, investigative, and other services as deemed appropriate.

Attorneys shall maintain an office that accommodates confidential meetings with defendants, the receipt of mail, and service of process. Attorneys shall maintain adequate communication services, including but not limited to, telephone and email, to provide for efficient communication with defendants, the court, and the City.

Standard 6: Reports of Attorney Activity

Attorneys shall maintain a case reporting and case management information system, and the attorneys shall provide reports to the City in a form and at increments as agreed to by the City and the attorneys. Attorneys shall not be required to compromise any attorney confidences when providing these reports.

Standard 7: Training

Attorneys must engage in regular training in the areas of criminal defense law, criminal process, trial advocacy, legal writing, appellate work, law practice management, or any other subject that, in the opinion of the attorney, is applicable to the work of public defense services.

Standard 8: Supervision, Monitoring and Evaluation of Attorneys

Attorneys shall establish a system in which more senior attorneys regularly review the work of more junior attorneys. The more senior attorneys shall review the case outcomes, caseloads, and any other information deemed appropriate, and shall regularly monitor the attorney's interactions with defendants, case preparation, and in-court activities of more junior attorneys. Attorneys may seek input from judges and other attorneys if appropriate.

Standard 9: Substitution of Counsel and Assignment of Contracts

Attorneys shall not assign a defendant to another law firm or subcontract with another law firm without first obtaining the express written permission of the City and shall remain directly involved in the representation of assigned defendants.

Standard 10: Qualifications of Attorneys
Attorneys shall endeavor to provide the highest quality public defense services. At a minimum, attorneys shall comply with the following: satisfy the minimum qualifications to practice law as established by the Washington Supreme Court; be familiar with the statutes, court rules, case law and constitutional law applicable to misdemeanor criminal defense work; be familiar with Washington's Rules of Professional Conduct; become familiar with performance guidelines for misdemeanor public defense if adopted by the Washington State Bar Association; be familiar with the consequences of any conviction or adjudication including but not limited to immigration implications; and be familiar with mental health and substance abuse issues applicable to misdemeanant defendants.

Standard 11: Disposition of Defendant Complaints
Attorneys shall establish a process for responding to complaints made by defendants. At a minimum, all complaints shall be reviewed by one or more senior attorneys of the law firm. Complaints that are not resolved by the attorney shall be directed by the attorney to the City Manager's Office, or may be directed to the Washington State Bar Association.

Standard 12: Cause for Termination of Defender Services and Removal of Attorney
Contracts with the attorney shall include grounds for termination. Such grounds for termination shall be based on good cause, which shall include, but shall not be limited to, the failure to provide effective assistance of counsel, the disregard of the rights and interests of the defendant, and or a willful disregard for these standards.

Standard 13: Non-Discrimination
Attorneys shall not, in the hiring of employees or the provision of services made possible or resulting from a contract with the City, discriminate on the grounds of race, color, religion, national origin, age marital status, gender, sexual orientation or disability.

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

Council Meeting: 10/04/2011
Agenda: Other Business
Item #: 8. h. (2).

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director

Date: September 21, 2011

Subject: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT GRANTING PRIVATE ACCESS OVER PROPERTY AT KIWANIS PARK

RECOMMENDATION:

That the City Council pass the attached Resolution authorizing the City Manager to execute an access and utility easement at Kiwanis Park as requested by Mr. Duke Goss.

BACKGROUND DISCUSSION:
Mr. Goss' residence is directly south of Kiwanis Park; the property address is 1330 8th Street West. Mr. Goss would like to subdivide his property into two residential parcels and build a new residence on the resulting waterfront parcel. In order to accomplish this, Mr. Goss has requested that the City grant an easement for access and utilities over a portion of Kiwanis Park (see attachment A) totaling approximately 1,808 square feet (approx. 15' x 120'). The legal description, map, and square footage calculation for the requested easement is shown in Attachment B.

Granting the requested easement will have no negative impacts on either public use of the park or plans for future park development. As a result, staff recommends approval of the request.

> In determining the appropriate valuation of the proposed park easement, staff considered the current assessed land value of the adjacent property owned by Mr. Goss. This was calculated to be $54.60 per square foot. Using the methodology typically used by the City to acquire easements for the purposes of right-of-way improvements, the value was discounted by 50%. Using this formula, the City's compensation for the proposed easement is established at $49,358 ($54.60/sq. ft. x 50% x 1,808 square feet). Mr. Goss would be required to remit payment to the City in this amount prior to the City recording the easement with King County.

The Park Board reviewed the easement request at their September 14th meeting and passed a motion recommending the City Council grant the easement.

Attachments:
Attachment A – Easement Location Map
Attachment B -Legal Description
Resolution
Access and Utility Easement

Kiwanis Park Easement Request

ATTACHMENT A

RESOLUTION R-4895

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO EXECUTE AN ACCESS AND UTILITY EASEMENT OVER CITY PROPERTY.

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City an Access and Utility Easement substantially similar to the Access and Utility Easement attached hereto as Exhibit A.

Section 2. Compensation for the Access and Utility Easement in the amount of $49,358 shall be remitted to the City of Kirkland before the Access and Utility Easement is recorded with King County.

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

R-4895
Exhibit A

ACCESS AND UTILITY EASEMENT

THIS ACCESS AND UTILITY EASEMENT ("Easement") is made this _____ day of _____, 2011, by and between the City of Kirkland ("Grantor") and Duke Goss ("Grantee").

Grantor is the owner of the real property commonly known as Kiwanis Park, which is legally described as follows (the "Property"):

> That portion of vacated Lake Avenue lying South of the North line of Blewett's 1st Addition to Kirkland, according to the Plat thereof recorded in Volume 6 of Plats, page 82, records of King County, Washington;
>
> EXCEPT the East half of said vacated Lake Avenue adjacent to Block 32 of said Plat as vacated by City of Kirkland Ordinance No. 899;
>
> TOGETHER WITH the South 15.00 feet of the East 25.00 feet of the following described property;
>
> That portion of Government Lot 8, Section 31, Township 26 North, Range 5 East, W.M., in King County, Washington described as follows:
>
> BEGINNING at the intersection of the North line of Blewett's 1st Addition to Kirkland with the Westerly line of Lake Avenue as shown upon said Plat;
> THENCE S 8°55' W along the Westerly line of said Lake Avenue a distance of 92.21 feet;
> THENCE, S 1°24' E continuing along said Westerly line a distance of 330.94 feet;
> THENCE N 89°51' W to the shore of Lake Washington;
> THENCE Northerly along said shore to a point which is S 89°26' W of the POINT OF BEGINNING;
> THENCE N 89°51' E to the POINT OF BEGINNING.

Grantee is the owner of real property legally described as follows:

> Lot A, City of Kirkland Short Plat Number I-83-75, recorded under recording 8404139002, said Short Plat being a Subdivision of a portion of Government Lot 8, Section 31, Township 26 North, Range 5 East, W. M., in King County, and Second Class Shorelands adjoining. Tax ID: 3126059027

Grantor, for and in consideration of valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants to Grantee, and their successors and assigns, a perpetual, nonexclusive easement for access and utility purposes over, under, in, along and across the Easement Area described as follows:

> The South 15.00 feet of the Property.

A diagram of the Easement Area is attached hereto.

Grantor also grants to Grantee and those acting under or on behalf of Grantee, the right to enter the Easement Area to construct, install, alter, maintain, repair or replace improvements in the Easement Area. Upon completion of any work within the Easement Area, Grantee shall restore the unimproved portion of the Easement Area, as nearly as reasonably practicable, to the condition it was in before commencement of the work.

In any legal action between the parties hereto to enforce any of the terms of this Easement, the prevailing party shall be entitled to recover all its expenses incurred in connection therewith, including reasonable attorney's fees, including and in connection with appeals.

This Easement contains the entire understanding between the parties and supersedes any prior understanding and agreements between the parties respecting the Easement. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Easement which are not fully expressed herein.

This Easement shall be recorded with the King County Recorder, shall run with the land described herein, and shall be binding upon the parties, their heirs, successors-in-interest, and assigns.

DATED at Kirkland, Washington, this _____ day of _____, 2011.

CITY OF KIRKLAND

_____
By Kurt Triplett
Its City Manager

STATE OF WASHINGTON)
) SS.
County of King)

On this _____ day of _____, 2011, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Kurt Triplett** to me known to be the **City Manager** of **the City of Kirkland** that executed the **Access and Utility Easement** and acknowledged the said instrument to be the free and voluntary act and deed of **the City of Kirkland**, for the uses and purposes therein set forth, and on oath stated that he was authorized to sign said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

_____
Notary's Signature

_____
Print Notary's Name
Notary Public in and for the State of Washington,
Residing at: _____
My commission expires: _____

August 25, 2011

LEGAL DESCRIPTION

FOR

DUKE GOSS

ACCESS AND UTILITIES EASEMENT

The South 15.00 feet of the following described property:

That portion of vacated Lake Avenue lying South of the North line of Blewett's 1st Addition to Kirkland, according to the Plat thereof recorded in Volume 6 of Plats, Page 82, Records of King County, Washington;

EXCEPT the East half of said vacated Lake Avenue adjacent to Block 32 of said Plat as vacated by City of Kirkland Ordinance No. 899;

TOGETHER WITH the South 15.00 feet of the East 25.00 feet of the following described property:

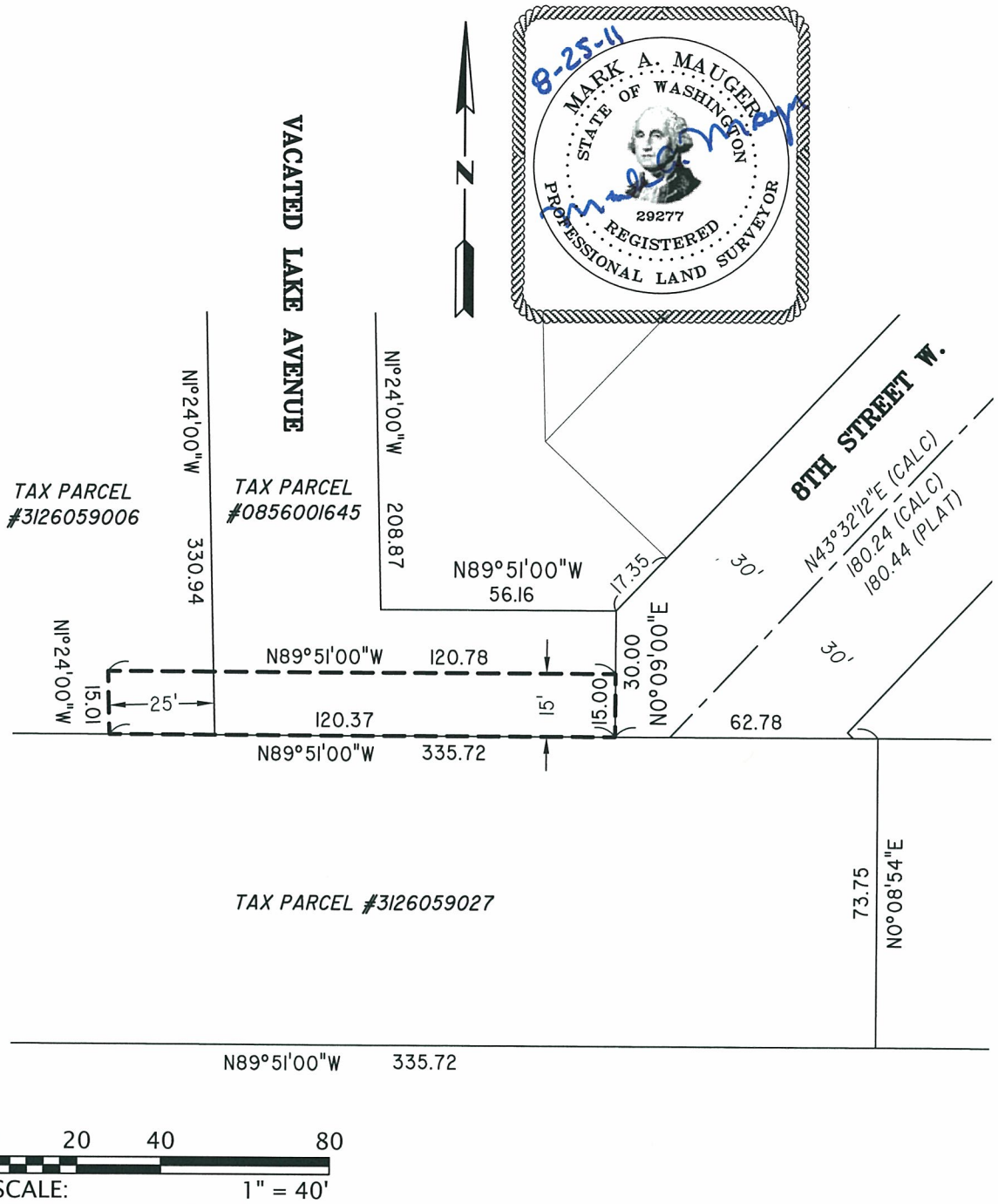
That portion of Government Lot 8, Section 31, Township 26 North, Range 5 East, W.M., in King County, Washington described as follows:

BEGINNING at the intersection of the North line of Blewett's 1st Addition to Kirkland with the Westerly line of Lake Avenue as shown upon said Plat;
Thence S 8°55' W along the Westerly line of said Lake Avenue a distance of 92.21 feet;
Thence S 1°24' E continuing along said Westerly line a distance of 330.94 feet;
Thence N 89°51' W to the shore of Lake Washington;
Thence Northerly along said shore to a point which is S 89°26' W of the POINT OF BEGINNING;
Thence N 89°51' E to the POINT OF BEGINNING.

Prepared by:	mm
Checked by:	DL

GOLDSMITH
LAND DEVELOPMENT SERVICES

SW 1/4, SE 1/4 SECTION 31, TOWNSHIP 26 N, RANGE 5 E, W.M.
CITY OF KIRKLAND, KING COUNTY, WASHINGTON



GOLDSMITH
LAND DEVELOPMENT SERVICES
PO Box 3565, Bellevue, WA 98004 T 425 462 1080 F 425 462 7719

SCALE: 1" = 80'	APR: MMAUGER	BY: EMALM
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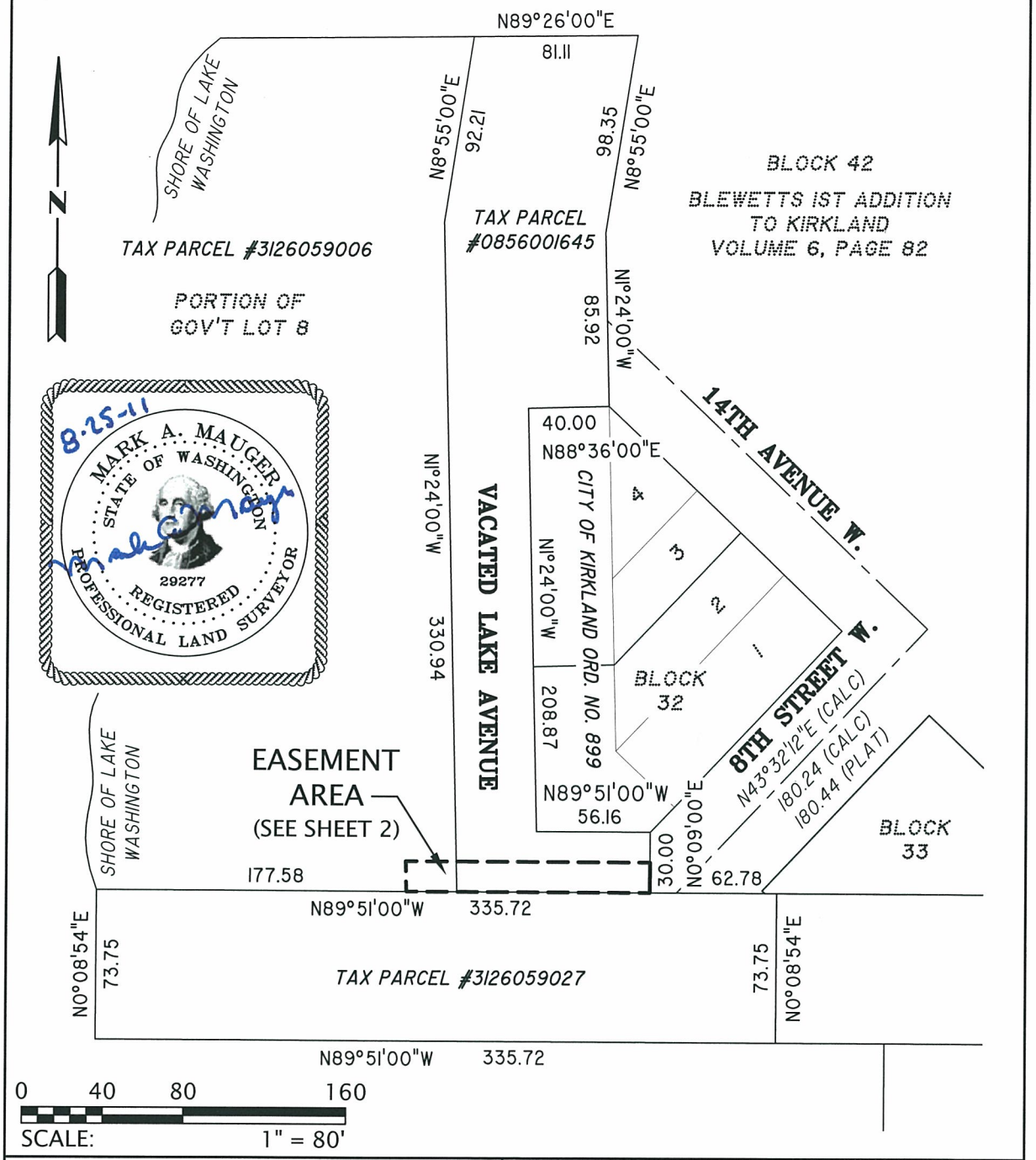
DUKE GOSS 11085

ACCESS & UTILITIES EASEMENT
FOR
DUKE GOSS

KING COUNTY WASHINGTON

2/2

SW 1/4, SE 1/4 SECTION 31, TOWNSHIP 26 N, RANGE 5 E, W.M.
CITY OF KIRKLAND, KING COUNTY, WASHINGTON



GOLDSMITH
LAND DEVELOPMENT SERVICES
PO Box 3565, Bellevue, WA 98004 T 425 462 1080 F 425 462 7719

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DUKE GOSS 11085

ACCESS & UTILITIES EASEMENT
FOR
DUKE GOSS
KING COUNTY WASHINGTON

1/2

8-25-11

DUKE GOSS SURVEY #11085 REFERENCE 03063-22P
COORDINATE FILE : 03063C22.CRD

SET #10 PROPOSED ACCESS/UTIL ESMT

FROM	BEARING/ANGLE	DISTANCE	TO	NORTH	EAST	ELEV
			76	8758.8997	10072.2787	
76	NW 89 51'00"	95.362	66	8759.1494	9976.9170	
66	NW 89 51'00"	25.009	79	8759.2149	9951.9081	
79	NW 01 24'00"	15.005	78	8774.2154	9951.5415	
78	SE 89 51'00"	25.009	75	8774.1499	9976.5504	
75	SE 89 51'00"	95.767	77	8773.8992	10072.3171	
77	SW 00 09'00"	15.000	76	8758.8993	10072.2778	
CLOSURE:						
76	NE 66 02'15"	.001	76	8758.8997	10072.2787	
		ERROR:		-.0004	-.0009	

1 PART IN 275313

PERIMETER	AREA (sq ft)	AREA (acres)
271.1529	1808.537	.042

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk

Date: September 22, 2011

Subject: Library Board Member Resignation and Appointment

RECOMMENDATION:

That Council acknowledge receipt of Mirza Avdic's resignation from the Library Board, approve the attached draft response, and appoint Eric DeJong as the new member to the remainder of the unexpired term, which ends March 31, 2013.

BACKGROUND DISCUSSION:

Mr. Avdic has tendered his resignation effective July 20, 2011 as he has moved from Kirkland and is no longer eligible to serve on the Library Board. Council interviewed and selected Mr. DeJong as an alternate appointee for any future unanticipated vacancy within the following six-month timeframe at their special meeting March 9, 2011.

FROM THE DESK OF
MIRZA AVDIC

September 21, 2011
City Council
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

Dear Council Members,

It is with great sadness that I wish to inform you that I have resigned from the Library Board, which I chaired over the past year, effective July 20, 2011. Thank you for giving me the opportunity to serve over the last three years. Since I last appeared in front of you for interviews in March, certain unforeseen and turbulent winds of life have unfortunately taken me out of the city that I hold so very close to my heart. I now reside in the city of Lake Stevens.

I have made many friends while in Kirkland, and though I can no longer serve the city in an official way, I continue to volunteer with the New Juanita and the Totem Lake Neighborhood Associations. Just this past weekend we successfully completed the 132nd Square Park makeover project, on which steering committee I also sat.

You have heard me speak to you passionately about wanting to participate in the transformation of the Totem Lake Malls area. That passion still burns within me. And if give me the honor to participate as a volunteer consultant when the time for this project comes, I would be happy to be of service. Thomas Paine once said: "My country is the world, and my religion is to do good." It is in that spirit that I wish to continue to bring positive changes not only to my new home city, but to Kirkland as well. For who knows, the same winds that took me away, may bring me back to Kirkland some day.

Sincerely,

2531 105TH AVE SE LAKE STEVENS, WA 98258
T 425-210-2540 E: MIRZA.AVDIC@ME.COM

D R A F T

October 5, 2011

Mr. Mirza Avdic
2531 105th Avenue S.E.
Lake Stevens, Washington 98258

Dear Mirza,

We have regretfully received your letter of resignation from the Kirkland Library Board.

The City Council appreciates your leadership and contributions to the Board, and we thank you for volunteering your time and talent to serve your community.

Best wishes in your current and future endeavors.

Sincerely,
KIRKLAND CITY COUNCIL

Joan McBride
Mayor

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk

Date: September 28, 2011

Subject: Cultural Council Member Resignation and Appointment

RECOMMENDATION:

That Council acknowledge receipt of Marianne Francis's resignation from the Cultural Council Position No. 4, approve the attached draft response, and appoint Linda Paros as the new member to the remainder of the unexpired term, which ends March 31, 2015.

BACKGROUND DISCUSSION:

Ms. Francis has tendered her resignation effective September 6, 2011 as increased responsibilities prevent her from serving on the Cultural Council. Council interviewed and selected Ms. Paros as an alternate appointee for any future unanticipated vacancy within the following six-month timeframe at their special meeting March 9, 2011.

-----Original Message-----
From: Marianne Francis
Sent: Tuesday, September 06, 2011 9:03 PM
To: City Council
Cc: Kathi Anderson; Amy Whittenburg; Julie Huffman
Subject: Cultural Council resignation

Dear Mayor McBride and City Council Members, Due to a dramatic increase in elder care duties and my responsibilities as a Trustee of Cornish College of the Arts, it is becoming increasingly clear that I will not be able to properly address my commitments to the Cultural Council. Therefore, effective immediately, I am resigning from the Kirkland Cultural Council.

I am deeply honored that I have been able to participate in the efforts to invigorate the presence of the Arts in downtown Kirkland. Our Artilization Team is a group of smart, energetic, caring civic volunteers who have put in a huge effort toward giving new life to Art Walk the past two summers. They should all be commended for their fantastic work.

Thank you for choosing me to work with these marvelous people. I will continue to work toward creating a lively downtown art scene as a private volunteer when my schedule allows. Please continue to support these fabulous upstanding citizens. They all care a great deal about retaining Kirkland's reputation as an important star on the Northwest art map.

Thank you, also, to each of you, for your ongoing efforts to create a vital and healthy city.

Sincerely,
Marianne Sorich Francis
Position #4, Kirkland Cultural Council

D R A F T

October 5, 2011

Ms. Marianne Francis
1250 3rd Street
Kirkland, Washington 98033

Dear Marianne,

We have regretfully received your letter of resignation from the Kirkland Cultural Council.

The City Council appreciates your leadership and contributions to the Council, and we thank you for volunteering your time and talent to serve your community.

Best wishes in your current and future endeavors.

Sincerely,
KIRKLAND CITY COUNCIL

Joan McBride
Mayor

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Barry Scott, Purchasing Agent

Date: September 22, 2011

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF OCTOBER 4, 2011

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of $50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated June 23, 2011, are as follows:

	Project	Process	Estimate/Price	Status
1.	Enterprise Architecture Roadmap Project	Request for Proposals	$65,000-$85,000	RFP issued on 9/28 with proposals due on 10/21.
2.	Fire & Building Department Strategic Plan	Request for Proposals	$70,000-$100,000	RFP issued on 9/20 with proposals due on 10/7.

Please contact me if you have any questions regarding this report.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Lorrie McKay, Intergovernmental Relations Manager

Date: September 26, 2011

Subject: INITIATIVE 1183: THE PRIVITIZATION OF LIQUOR

RECOMMENDATION:
City Council holds a public hearing and considers adopting a resolution expressing (Opposition/Support) to Initiative Measure No. 1183 concerning the privatization of liquor. The Council may also choose to take no action.

BACKGROUND:
Initiative 1183 was filed with the Secretary of State's office on May 20, 2011. Supporters submitted over 361,339 signatures to the secretary of state's office and it was certified to the November 2011 statewide ballot in July. The full text of the 60 page initiative is included (Attachment A).

The ballot title is as follows:

> Initiative Measure No. 1183 concerns liquor: beer, wine, and spirits (hard liquor).
>
> This measure would close state liquor stores and sell their assets; license private parties to sell and distribute spirits; set license fees based on sales; regulate licensees; and change regulation of wine distribution.
>
> Should this measure be enacted into law? Yes [ ] No [ ]

Ballot Measure Summary
The measure would close state liquor stores and sell their assets including the liquor distribution center. The state would license private parties to distribute spirits and to sell spirits in retail stores meeting certain criteria, subject to specified training and compliance requirements. The measure establishes licensing fees for sale and distribution of spirits based on the licensee's sales revenues. It would change some wine distribution laws and allow non-uniform wholesale pricing for wine and spirits.

I-1183 Proponents
Association of Washington Business; Costco; Family Wineries of Washington State; Kent Chamber of Commerce; Northwest Grocery Association; Seattle Restaurant Alliance; Washington Restaurant Association; and Washington Retail Association.

I-1183 Opponents
Washington State Democrats; King County Democrats; Spokane County Democrats; Clark County Democratic Central Committee; Cowlitz County Democratic Central Committee; Young Democrats of Washington; 5th; 11th; 17th; 25th; 28th; 32nd; 33rd; 34th; 36th; 37th; 41st; 43rd; 44th; and 46th District Democrats; Washington State Labor Council AFL-CIO; Washington State Council of Fire Fighters; United Food & Commercial Workers Local 21; Washington Federation of State Employees; American Federation of Teachers of Washington; Washington State Building & Construction Trades; Washington Public Employees Association/UFCW 365; Joint Council of Teamsters 28; UFCW Local 141 (Nurses Union); SEIU State Council; Sheet Metal Workers Local 66; Snohomish County Central Labor Council; Spokane Regional Labor Council; IBEW Local 46; Amalgamated Transit Union Local 587; Washington Association for Substance Abuse and Violence Prevention; Faith Action Network; Statewide Poverty Action Network; League of Women Voters of Washington; APACE – Asian Pacific Islander Americans for Civic Empowerment; Asian Pacific Islander Coalition of King County; Children's Alliance; FUSE Washington; Entre Hermanos; Seamar Community Health Clinic; Puget Sound Alliance for Retired Americans; Latino PAC; Inland Empire Residential Resources; Northwest Progressive Institute; One America Votes; Puget Sound Sage; Japanese Americans Citizens League, Seattle Chapter; Washington Beer and Wine Distributors; Wine and Spirits Wholesalers of America; Contract Liquor Store Managers Advisory Committee; American Beverage Licensees; Hood River Distillers; and Keith Barnes, Bainbridge Organic Distillers.

Liquor revenue received by cities
State and local governments get two types of revenue from liquor sales: liquor profits and liquor taxes

1. **Liquor board profits** are revenues from permits, licenses, and liquor store sales. The state first pays for the activities of the Liquor Control Board (administration, sales staff, leases, etc.). The remaining profits are shared: 50% to the state, 40% to cities, and 10% to counties. (Border areas receive an additional distribution.)
2. **Liquor excise taxes** come from a state tax to consumers and restaurant licensees. The tax rates include a basic rate plus surcharges. Revenues from the basic rates of 15% for consumers and 10% for restaurants are shared: 65% to the state, 28% to cities, and 7% to counties. The state retains all surcharge revenue.

The Municipal Research and Services Center's *Budget Suggestions for 2012* estimates revenue distributions to cities as follows:

Distributions to cities	2010	2011
Liquor profits	$33,276,498	$29,471,000
Per capita profits	$7.93	$6.85
Liquor tax	$20,622,713	$21,341,000
Per capita liquor tax	$4.91	$4.96

2010: Initiatives 1100 & 1105 related to liquor sales and the privatization of liquor
Last year, voters considered initiatives 1100 and 1105, both of which sought to deregulate the liquor system. Both initiatives sought to eliminate the liquor mark-up. I-1100 kept the liquor excise tax; I-1105 directed the WSLCB to provide a new liquor tax proposal to the Legislature but did not require the Legislature to implement the tax proposal. Liquor sales would have been subject only to local sales and B&O taxes. I-1100 would have levied a $2,000 annual distributor

license fee and a $1,000 annual retail license fee. I-1105 requested the WSLCB establish reasonable annual license fees for distributors and retailers. Both initiatives were expected to decrease state and local government liquor revenues.

Both initiatives privatized the retail sale of liquor and would have allowed a large expansion of liquor retail stores. The Washington State Auditor estimated that 3,357 private stores would have received liquor retail licenses under 1100 or 1105, up from the approximately 325 stores currently allowed. I-1100 would have allowed retailers to buy directly from manufacturers and negotiate volume discounts. I-1105 would have required retailers to buy from a third-party distributor, which would then have sold liquor at the same price to all retailers.

Both initiatives were rejected by the voters in 2010. I-1100 received 47% of the vote while I-1105 received only 35% of the vote.

Key principles important to cities regarding the privatization of liquor sales

In March of 2011, the Association of Washington Cities (AWC) identified six key principles important to cities for law-makers to consider in the ongoing debate about the privatization of liquor sales.

1. Prevent loss of funding to cities and counties through reliable continuation or replacement of liquor proceeds.
2. Provide for reliable funding of the Municipal Research and Services Center, currently financed by liquor proceeds.
3. Ensure orderly, well-planned implementation.
4. Ensure resources for an appropriate level of enforcement.
5. Provide for restriction on licensing to ensure a reasonable number of sites.
6. Provide authority for local government zoning control to prevent inappropriate locating of retail sites, e.g. near schools, shelters and treatment centers.

2011: Initiative 1183 concerning the privatization of liquor

I-1183's proponents drafted the measure to address many of the concerns raised by stakeholders about initiatives 1100 and 1105, including loss of state and local revenue, public safety concerns due to increased availability of liquor stores and concerns about changes to beer distribution.

Key provisions of I-1183 include:

- Stores must have minimum 10,000 square feet to obtain a retail liquor license to limit the number of stores (existing contracted liquor stores under this requirement would be grandfathered in)
- Local revenue must match or exceed revenue in comparable periods
- Retailers would pay 17% of gross liquor sales to the state and $166 annual license renewal fee
- Distributors would pay 10% of gross liquor sales to the state in first two years, 5% thereafter and $1,320 annual license renewal fee
- Distributors must pay a total of $150 million to the state in first two years
- Local governments, churches, schools and the public may object to the issuance of local liquor licenses
- Fines and penalties for liquor violations (selling to minors) would double
- Employees selling liquor would be required to undergo increased compliance training every five years

- Repeals any law adopted in 2011 regarding liquor warehousing and distribution (specifically ESSB 5942)
- Allows for changes to wine distribution, including quantity discounts and central warehousing
- Does not make any changes to beer distribution or regulation

Private licenses would be available on February 8, 2012. Private distributors would be allowed to distribute liquor beginning on March 1, 2012. Private retailers would be allowed to sell liquor beginning on June 1, 2012. The state must close distribution center and retail stores by June 15, 2012.

Impact on local revenue

According to the AWC, the initiative specifies that local governments are to continue to receive, in the aggregate, no less liquor revenue than comparable periods plus an additional $10 million per year for public safety. According to the Washington State Liquor Control Board (WSLCB), in 2011 the City of Kirkland received $621,180 in the form of liquor excise taxes and a portion of the WSLCB's profits

In general, liquor taxes would remain. The current liquor markup – the primary source of revenue for liquor profits – would end. However, the initiative provides a new annual license fee for liquor retailers (17% of its liquor sales) and distributors (10% of its liquor sales for the first two years; 5% of its liquor sales after that), which would be distributed as the markup currently is. During the first year, distributors must collectively pay $150 million in license fees.

The Office of Financial Management (OFM) estimates the liquor license fees will increase revenue for local and state governments if the initiative passes (Attachment B). Over six years, local governments would receive an additional $186 to $227 million over current projections. The State General Fund would receive an additional $216 and $253 million. OFM assumes that an estimated 1,428 retailers would begin selling liquor, and sales would increase 5% due to increased availability. OFM further assumes that the liquor markup would increase under a private system. In an analysis partially funded by Costco, the Washington Research Council estimated that liquor revenue to local governments would increase by $279 million over six years if the initiative passes.

Potential public health, safety, and economic implications

The Washington State Budget and Policy Center (WSBPC) points out that OFM's analysis does not account for future costs associated with greater consumption of hard liquor. They estimate that hard liquor sales (consumption) would increase by about five percent under I-1183. However, a 2010 report from the State Auditor's Office estimated that consumption of hard liquor could increase by as much as 15 percent under a privatized liquor system similar to that proposed in I-1183. The WSBPC claims that either way, Washington State could face increased public health and safety costs under the initiative due to higher rates of drunk driving and other alcohol-related crimes.

The initiative refers to "trade areas" in Section 103 (c). The language states that the Liquor Control Board "shall not deny" a liquor license to stores under 10,000 square feet if there is no other liquor retailer in the "trade area." Because "trade area" is neither defined in the initiative nor is it currently defined by state law, the No on I-1183 Campaign has defined a trade area conservatively

for cities and towns with 20,000 or more residents as a 1 mile radius around existing 10,000 square foot (or larger) stores that currently sell beer and wine.

For the City of Kirkland, the number of outlets that would immediately qualify to sell hard liquor under I-1183 would climb from the current 3 liquor stores to approximately 21 retailers. Impacts to law enforcement and social service resources are undetermined.

Using the No on 1183 Campaign's definition of "trade area," none of the mini-marts or gas stations in Kirkland would qualify for a liquor license. However, that may change depending on how "trade area" is ultimately defined.

The WSBPC also suggests that job losses could harm state economy. It is estimated that nearly 1,000 state liquor store and distribution center employees would lose their jobs under I-1183. Nationwide, mass layoffs of front-line state and local government workers continue to slow our economic recovery. The WSBPC says that by adding hundreds of state workers to the unemployment rolls could hamper our own recovery efforts.

STAFF RECOMMENDATION: Due to the complexity of the issue, staff has no recommendation.

COUNCIL ACTION:
Under RCW 42.17.130, the Council may vote on a resolution to support or oppose a ballot proposition "so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of any opposing view;…"

Attachment A – Text of Initiative 1183
Attachment B – OFM's Fiscal Impact Statement on I-1183
Attachment C – Secretary of State's Explanatory Statement on I-1183
Attachment D – Voter Guide Statements on I-1183
Attachment E – Yes on I-1185 materials
Attachment F – No on I-1125 materials
Attachment G – Draft Resolutions

INITIATIVE MEASURE _____

AN ACT Relating to liquor; amending RCW 66.24.360, 82.08.150, 66.08.050, 66.08.060, 66.20.010, 66.20.160, 66.24.310, 66.24.380, 66.28.030, 66.24.540, 66.24.590, 66.28.060, 66.28.070, 66.28.170, 66.28.180, 66.28.190, 66.28.280, 66.04.010, 43.19.19054, 66.08.020, 66.08.026, 66.08.030, 66.24.145, 66.24.160, 66.32.010, 66.44.120, 66.44.150, 66.44.340, 19.126.010, and 19.126.040; reenacting and amending RCW 66.28.040 and 19.126.020; adding new sections to chapter 66.24 RCW; adding new sections to chapter 66.28 RCW; creating new sections; repealing RCW 66.08.070, 66.08.075, 66.08.160, 66.08.165, 66.08.166, 66.08.167, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.100, 66.16.110, 66.16.120, and 66.28.045; contingently repealing ESSB 5942, 2011 1st sp.s. c ... ss 1 through 10; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

PART I

LICENSED SALE OF SPIRITS

NEW SECTION. **Sec. 101.** (1) The people of the state of Washington, in enacting this initiative measure, find that the state government monopoly on liquor distribution and liquor stores in Washington and the state government regulations that arbitrarily restrict the wholesale distribution and pricing of wine are outdated, inefficient, and costly to local taxpayers, consumers, distributors, and retailers. Therefore, the people wish to privatize and modernize both wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine by enacting this initiative.

(2) This initiative will:

(a) Privatize and modernize wholesale distribution and retail sales of liquor in Washington state in a manner that will reduce state government costs and provide increased funding for state and local government services, while continuing to strictly regulate the distribution and sale of liquor;

(b) Get the state government out of the commercial business of distributing, selling, and promoting the sale of liquor, allowing the state to focus on the more appropriate government role of enforcing liquor laws and protecting public health and safety concerning all alcoholic beverages;

(c) Authorize the state to auction off its existing state liquor distribution and state liquor store facilities and equipment;

(d) Allow a private distributor of alcohol to get a license to distribute liquor if that distributor meets the requirements set by the Washington state liquor control board and is approved for a license by the board and create provisions to promote investments by private distributors;

(e) Require private distributors who get licenses to distribute liquor to pay ten percent of their gross spirits revenues to the state during the first two years and five percent of their gross spirits revenues to the state after the first two years;

(f) Allow for a limited number of retail stores to sell liquor if they meet public safety requirements set by this initiative and the liquor control board;

(g) Require that a retail store must have ten thousand square feet or more of fully enclosed retail space within a single structure in order to get a license to sell liquor, with limited exceptions;

(h) Require a retail store to demonstrate to state regulators that it can effectively prevent sales of alcohol to minors in order to get a license to sell liquor;

(i) Ensure that local communities have input before a liquor license can be issued to a local retailer or distributor and maintain all local zoning requirements and authority related to the location of liquor stores;

(j) Require private retailers who get licenses to sell liquor to pay seventeen percent of their gross spirits revenues to the state;

(k) Maintain the current distribution of liquor revenues to local governments and dedicate a portion of the new revenues raised from liquor license fees to increase funding for local public safety programs, including police, fire, and emergency services in communities throughout the state;

(l) Make the standard fines and license suspension penalties for selling liquor to minors twice as strong as the existing fines and penalties for selling beer or wine to minors;

(m) Make requirements for training and supervision of employees selling spirits at retail more stringent than what is now required for sales of beer and wine;

(n) Update the current law on wine distribution to allow wine distributors and wineries to give volume discounts on the wholesale price of wine to retail stores and restaurants; and

(o) Allow retailers and restaurants to distribute wine to their own stores from a central warehouse.

NEW SECTION. **Sec. 102.** A new section is added to chapter 66.24 RCW to read as follows:

(1) The holder of a spirits distributor license or spirits retail license issued under this title may commence sale of spirits upon issuance thereof, but in no event earlier than March 1, 2012, for distributors, or June 1, 2012, for retailers. The board must complete application processing by those dates of all complete applications for

spirits licenses on file with the board on or before sixty days from the effective date of this section.

(2) The board must effect orderly closure of all state liquor stores no later than June 1, 2012, and must thereafter refrain from purchase, sale, or distribution of liquor, except for asset sales authorized by this act.

(3) The board must devote sufficient resources to planning and preparation for sale of all assets of state liquor stores and distribution centers, and all other assets of the state over which the board has power of disposition, including without limitation goodwill and location value associated with state liquor stores, with the objective of depleting all inventory of liquor by May 31, 2012, and closing all other asset sales no later than June 1, 2013. The board, in furtherance of this subsection, may sell liquor to spirits licensees.

(4)(a) Disposition of any state liquor store or distribution center assets remaining after June 1, 2013, must be managed by the department of revenue.

(b) The board must obtain the maximum reasonable value for all asset sales made under this section.

(c) The board must sell by auction open to the public the right at each state-owned store location of a spirits retail licensee to operate a liquor store upon the premises. Such right must be freely alienable and subject to all state and local zoning and land use requirements applicable to the property. Acquisition of the operating rights must be a precondition to, but does not establish eligibility for, a spirits retail license at the location of a state store and does not confer any privilege conferred by a spirits retail license. Holding the rights does not require the holder of the right to operate a liquor-licensed business or apply for a liquor license.

(5) All sales proceeds under this section, net of direct sales expenses and other transition costs authorized by this section, must be deposited into the liquor revolving fund.

(6)(a) The board must complete the orderly transition from the current state-controlled system to the private licensee system of spirits retailing and distribution as required under this chapter by June 1, 2012.

(b) The transition must include, without limitation, a provision for applying operating and asset sale revenues of the board to just and reasonable measures to avert harm to interests of tribes, military buyers, and nonemployee liquor store operators under then existing contracts for supply by the board of distilled spirits, taking into account present value of issuance of a spirits retail license to the holder of such interest. The provision may extend beyond the time for completion of transition to a spirits licensee system.

(c) Purchases by the federal government from any licensee of the board of spirits for resale through commissaries at military installations are exempt from sales tax based on selling price levied by RCW 82.08.150.

NEW SECTION. **Sec. 103.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premise licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in subsection (c) of this section, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent

issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under section 102 of this act on the grounds of location, nature, or size of the premises to be licensed. The board shall not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no retail spirits license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable

groups of retailers, including at least one retailer licensed to sell spirits.

(4) Each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a retail spirits license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by retail spirits licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees on-going training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

(i) Provide on-going training to employees;

(ii) Accept only certain forms of identification for alcohol sales;

(iii) Adopt policies on alcohol sales and checking identification;

(iv) Post specific signs in the business; and

(v) Keep records verifying compliance with the program's requirements.

Sec. 104. RCW 66.24.360 and 2011 c 119 s 203 are each amended to read as follows:

(1) There ((~~shall be~~)) is a ((~~beer and/or wine retailer's license to be designated as a~~)) grocery store license to sell wine and/or beer, including without limitation strong beer((~~, and/or wine~~)) at retail in ((~~bottles, cans, and~~)) original containers, not to be consumed upon the premises where sold((~~, at any store other than the state liquor stores~~)).

((~~(1)~~)) (2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

((~~(2)~~)) (4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

((~~(3)~~)) (5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6) The board ((~~shall~~)) must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board ((~~shall~~)) must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it ((~~shall~~)) must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

((~~(4)~~)) (7) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

((~~(5)~~)) (8) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

(9) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this ((~~license~~)) endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

((~~(6)~~)) (10) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

NEW SECTION. **Sec. 105.** A new section is added to chapter 66.24 RCW to read as follows:

(1) There is a license for spirits distributors to (a) sell spirits purchased from manufacturers, distillers, or suppliers including, without limitation, licensed Washington distilleries, licensed spirits importers, other Washington spirits distributors, or suppliers of foreign spirits located outside of the United States, to spirits retailers including, without limitation, spirits retail licensees, special occasion license holders, interstate common carrier license holders, restaurant spirits retailer license holders, spirits, beer, and wine private club license holders, hotel license holders, sports entertainment facility license holders, and spirits, beer, and wine nightclub license holders, and to other spirits distributors; and (b) export the same from the state.

(2) By January 1, 2012, the board must issue spirits distributor licenses to all applicants who, upon the effective date of this

section, have the right to purchase spirits from a spirits manufacturer, spirits distiller, or other spirits supplier for resale in the state, or are agents of such supplier authorized to sell to licensees in the state, unless the board determines that issuance of a license to such applicant is not in the public interest.

(3)(a) As limited by (b) of this subsection and subject to (c) of this subsection, each spirits distributor licensee must pay to the board for deposit into the liquor revolving fund, a license issuance fee calculated as follows:

(i) In each of the first two years of licensure, ten percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively; and

(ii) In the third year of licensure and each year thereafter, five percent of the total revenue from all the licensee's sales of spirits made during the year for which the fee is due, respectively.

(b) The fee required under this subsection (3) is calculated only on sales of items which the licensee was the first spirits distributor in the state to have received:

(i) In the case of spirits manufactured in the state, from the distiller; or

(ii) In the case of spirits manufactured outside the state, from an authorized out-of-state supplier.

(c) By March 31, 2013, all persons holding spirits distributor licenses on or before March 31, 2013, must have paid collectively one hundred fifty million dollars or more in spirits distributor license fees. If the collective payment through March 31, 2013, totals less than one hundred fifty million dollars, the board must, according to rules adopted by the board for the purpose, collect by May 31, 2013, as additional spirits distributor license fees the difference between one hundred fifty million dollars and the actual receipts, allocated among persons holding spirits distributor licenses at any time on or before

March 31, 2013, ratably according to their spirits sales made during calendar year 2012. Any amount by which such payments exceed one hundred fifty million dollars by March 31, 2013, must be credited to future license issuance fee obligations of spirits distributor licensees according to rules adopted by the board.

(d) A retail licensee selling for resale must pay a distributor license fee under the terms and conditions in this section on resales of spirits the licensee has purchased on which no other distributor license fee has been paid. The board must establish rules setting forth the frequency and timing of such payments and reporting of sales dollar volume by the licensee, with payments due quarterly in arrears.

(e) No spirits inventory may be subject to calculation of more than a single spirits distributor license issuance fee.

(4) In addition to the payment set forth in subsection (3) of this section, each spirits distributor licensee renewing its annual license must pay an annual license renewal fee of one thousand three hundred twenty dollars for each licensed location.

(5) There is no minimum facility size or capacity for spirits distributor licenses, and no limit on the number of such licenses issued to qualified applicants. License applicants must provide physical security of the product that is substantially as effective as the physical security of the distribution facilities currently operated by the board with respect to preventing pilferage. License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing distributor premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits distributor licenses.

Sec. 106. RCW 82.08.150 and 2009 c 479 s 65 are each amended to read as follows:

(1) There is levied and ((~~shall be~~)) collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price((~~. The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees~~)).

(2) There is levied and ((~~shall be~~)) collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by ((~~Washington state liquor stores and agencies to spirits, beer, and wine restaurant licensees~~)) a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and ((~~shall be~~)) collected an additional tax upon each ((~~retail~~)) sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter. ((~~The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees.~~))

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each ((~~retail~~)) sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits

in the original package by a licensee of the board at the rate of seven cents per liter. ((~~The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees.~~)) All revenues collected during any month from this additional tax ((~~shall~~)) must be deposited in the state general fund by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of ((~~one and seven-tenths percent of the selling price through June 30, 1995, two and six-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and~~)) three and four-tenths percent of the selling price ((~~thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees~~)).

(b) An additional tax is imposed upon retail sale of spirits in the original package to a restaurant spirits retailer at the rate of ((~~one and one-tenth percent of the selling price through June 30, 1995, one and seven-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and~~)) two and three-tenths percent of the selling price ((~~thereafter. This additional tax applies to all such sales to spirits, beer, and wine restaurant licensees~~)).

(c) An additional tax is imposed upon each ((~~retail~~)) sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of ((~~twenty cents per liter through June 30, 1995, thirty cents per liter for the period July 1, 1995, through June 30, 1997, and~~)) forty-one cents per liter ((~~thereafter. This additional tax applies to all such~~

~~sales including sales by Washington state liquor stores and agencies, and including sales to spirits, beer, and wine restaurant licensees~~)).

(d) All revenues collected during any month from additional taxes under this subsection ((~~shall~~)) must be deposited in the state general fund by the twenty-fifth day of the following month.

(7)(a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter. ((~~This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to spirits, beer, and wine restaurant licensees.~~))

(b) All revenues collected during any month from additional taxes under this subsection ((~~shall~~)) must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 ((~~shall~~)) does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section ((~~shall~~)) must be paid by the buyer to the seller, and each seller ((~~shall~~)) must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller ((~~shall~~)) must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it ((~~shall be~~)) is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) As used in this section, the terms, "spirits" and "package" ((~~shall~~)) have the same meaning ((~~ascribed to them~~)) as provided in chapter 66.04 RCW.

Sec. 107. RCW 66.08.050 and 2011 c 186 s 2 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, ((~~shall~~)) must:

(1) ((~~Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;~~

~~(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require. Sampling on contract store premises is permitted under this act;~~

~~(3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;~~

~~(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;~~

~~(5)~~)) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

((~~(6)~~)) (2) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

((~~(7)~~)) (3) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

((~~(8)~~)) (4) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

((~~(9)~~)) (5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

((~~(10)~~)) (6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program ((~~shall~~)) must cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

((~~(11)~~)) (7) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and ((~~shall have~~)) has full power to do each and every act necessary to the conduct of its ((~~business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor: PROVIDED, That the board shall have~~)) regulatory functions, including all supplies procurement, preparation and approval of forms, and every other undertaking necessary to perform its regulatory functions whatsoever, subject only to audit by the state auditor. However, the board has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not

a clear and present danger of disorderly conduct being provoked by such language or to restrict advertising of lawful prices.

Sec. 108. RCW 66.08.060 and 2005 c 231 s 3 are each amended to read as follows:

((~~(1) The board shall not advertise liquor in any form or through any medium whatsoever.~~

~~(2) In-store liquor merchandising is not advertising for the purposes of this section.~~

~~(3)~~)) The board ((~~shall have~~)) has power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor.

Sec. 109. RCW 66.20.010 and 2011 c 119 s 213 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee ((~~shall~~)) must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in

scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation ((~~at prices to be fixed by the board~~));

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a

manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title ((~~66 RCW~~)) to the contrary notwithstanding. Any such spirituous liquor ((~~shall~~)) must be purchased from ((~~the board or a spirits, beer, and wine restaurant licensee~~)) a spirits retailer or distributor, and any such ((~~beer and wine shall be~~)) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title ((~~66 RCW~~)) to the contrary notwithstanding. Any such spirituous liquor ((~~shall~~)) must be purchased from ((~~the board or a spirits, beer, and wine restaurant licensee~~)) a spirits retailer or distributor, and any such ((~~beer and wine shall be~~)) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title ((~~66 RCW~~)) to the contrary notwithstanding. Any such spirituous liquor ((~~shall~~))

must be purchased from ((~~the board~~)) a liquor spirits retailer or distributor, and any such ((~~beer or wine shall be~~)) liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests.

Sec. 110. RCW 66.20.160 and 2005 c 151 s 8 are each amended to read as follows:

((~~Words and phrases~~)) As used in RCW 66.20.160 ((~~to~~)) through 66.20.210, inclusive, ((~~shall have the following meaning:~~

~~"Card of identification" means any one of those cards described in RCW 66.16.040.~~))

"licensee" means the holder of a retail liquor license issued by the board, and includes any employee or agent of the licensee.

((~~"Store employee" means a person employed in a state liquor store to sell liquor.~~))

Sec. 111. RCW 66.24.310 and 2011 c 119 s 301 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, no person ((~~shall~~)) may canvass for, solicit, receive, or take orders for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless ((~~such person shall be the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer distributor's license, a microbrewer's license, a domestic brewer's~~

~~license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine, and shall have~~)) the person is the representative of a licensee or certificate holder authorized by this title to sell liquor for resale in the state and has applied for and received a representative's license.

(b) (a) of this subsection ((~~shall~~)) does not apply to: (i) Drivers who deliver spirits, beer, or wine; or (ii) domestic wineries or their employees.

(2) Every representative's license issued under this title ((~~shall be~~)) is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board; the board, for the purpose of maintaining an orderly market, may limit the number of representative's licenses issued for representation of specific classes of eligible employers.

(3) Every application for a representative's license must be approved by a holder of a certificate of approval ((~~issued pursuant to RCW 66.24.270 or 66.24.206~~)), a licensed beer distributor, a licensed domestic brewer, a licensed beer importer, a licensed microbrewer, a licensed domestic winery, a licensed wine importer, a licensed wine distributor, or by a distiller, manufacturer, importer, or distributor of ((~~spirituous liquor~~)) spirits, or of foreign-produced beer or wine, as required by the rules and regulations of the board ((~~shall require~~)).

(4) The fee for a representative's license ((~~shall be~~)) is twenty-five dollars per year.

((~~(5) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may, after he or she has applied for and received a representative's license, contact retail~~

~~licensees of the board only in goodwill activities pertaining to spirituous liquor products.~~))

Sec. 112. RCW 66.24.380 and 2005 c 151 s 10 are each amended to read as follows:

There ((~~shall be~~)) is a retailer's license to be designated as a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year. For the purposes of this subsection, special occasion licensees that are "agricultural area fairs" or "agricultural county, district, and area fairs," as defined by RCW 15.76.120, that receive a special occasion license may, once per calendar year, count as one event fairs that last multiple days, so long as alcohol sales are at set dates, times, and locations, and the board receives prior notification of the dates, times, and locations. The special occasion license applicant will pay the sixty dollars per day for this event.

(2) The licensee may sell spirits, beer, and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) ((~~Spirituous~~)) Liquor sold under this special occasion license must be purchased ((~~at a state liquor store or contract liquor store without discount at retail prices, including all taxes~~)) from a licensee of the board.

(5) Any violation of this section is a class 1 civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW.

Sec. 113. RCW 66.28.030 and 2004 c 160 s 10 are each amended to read as follows:

Every domestic distillery, brewery, and microbrewery, domestic winery, certificate of approval holder, licensed liquor importer, licensed wine importer, and licensed beer importer ((~~shall be~~)) is responsible for the conduct of any licensed spirits, beer, or wine distributor in selling, or contracting to sell, to retail licensees, spirits, beer, or wine manufactured by such domestic distillery, brewery, microbrewery, domestic winery, manufacturer holding a certificate of approval, sold by an authorized representative holding a certificate of approval, or imported by such liquor, beer, or wine importer. Where the board finds that any licensed spirits, beer, or wine distributor has violated any of the provisions of this title or of the regulations of the board in selling or contracting to sell spirits, beer, or wine to retail licensees, the board may, in addition to any punishment inflicted or imposed upon such distributor, prohibit the sale of the brand or brands of spirits, beer, or wine involved in such violation to any or all retail licensees within the trade territory usually served by such distributor for such period of time as the board may fix, irrespective of whether the distiller manufacturing such spirits or the liquor importer importing such spirits, brewer manufacturing such beer or the beer importer importing such beer, or the domestic winery manufacturing such wine or the wine importer importing such wine or the certificate of approval holder manufacturing such spirits, beer, or wine or acting as authorized representative actually participated in such violation.

Sec. 114. RCW 66.24.540 and 1999 c 129 s 1 are each amended to read as follows:

(1) There ((~~shall be~~)) is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

((~~(1)~~)) (a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

((~~(a)~~)) (i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

((~~(b)~~)) (ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

((~~(c)~~)) (iii) The licensee ((~~shall~~)) must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest ((~~shall~~)) must also execute an affidavit verifying that no one under twenty-one years of age ((~~shall have~~)) has access to the spirits, beer, and wine in the honor bar.

((~~(2)~~)) (b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2) The annual fee for a motel license is five hundred dollars.

(3) For the purposes of this section, "motel" ((~~as used in this section~~)) means a transient accommodation licensed under chapter 70.62 RCW.

((~~As used in this section, "spirits," "beer," and "wine" have the meanings defined in RCW 66.04.010.~~))

Sec. 115. RCW 66.24.590 and 2011 c 119 s 403 are each amended to read as follows:

(1) There ((~~shall be~~)) is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license ((~~shall~~)) must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee ((~~shall~~)) must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest ((~~shall~~)) must also execute an affidavit verifying that no one under twenty-one years of age ((~~shall~~)) will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of ((~~beer, including strong beer, or wine~~)) liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and ((~~shall~~)) must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license ((~~shall~~)) must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee ((~~shall~~)) must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the ((~~beer or wine~~)) liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where ((~~alcohol~~)) liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas.

If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by ((~~minors~~)) persons of lawful age to purchase liquor.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

Sec. 116. RCW 66.28.040 and 2011 c 186 s 4, 2011 c 119 s 207, and 2011 c 62 s 4 are each reenacted and amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no domestic brewery, microbrewery, distributor, distiller, domestic winery, importer, rectifier, certificate of approval holder, or other manufacturer of liquor ((~~shall~~)) may, within the state of Washington, give to any person any liquor; but nothing in this section nor in RCW 66.28.305 prevents a domestic brewery, microbrewery, distributor, domestic winery, distiller, certificate of approval holder, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210((~~, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board~~)); nothing in this section ((~~shall~~)) prevents a domestic brewery, microbrewery, domestic winery, distillery, certificate of approval holder, or distributor from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150; nothing in this section ((~~shall~~)) prevents a domestic winery, certificate of approval holder, or distributor from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a

not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and that uses wine so furnished solely for such educational purposes or a domestic winery, or an out-of-state certificate of approval holder, from furnishing wine without charge or a domestic brewery, or an out-of-state certificate of approval holder, from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310, from furnishing spirits without charge, to a nonprofit charitable corporation or association exempt from taxation under ((~~section~~)) 26 U.S.C. Sec. 501(c)(3) or (6) of the internal revenue code of 1986 ((~~(26 U.S.C. Sec. 501(c)(3) or (6))~~)) for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section ((~~shall~~)) prevents a domestic brewery or microbrewery from serving beer without charge, on the brewery premises; nothing in this section ((~~shall~~)) prevents donations of wine for the purposes of RCW 66.12.180; nothing in this section ((~~shall~~)) prevents a domestic winery from serving wine without charge, on the winery premises; nothing in this section ((~~shall~~)) prevents a craft distillery from serving spirits without charge, on the distillery premises subject to RCW 66.24.145; nothing in this section prohibits spirits sampling under chapter 186, Laws of 2011; and nothing in this section ((~~shall~~)) prevents a winery or microbrewery from serving samples at a farmers market under section 1, chapter 62, Laws of 2011.

Sec. 117. RCW 66.28.060 and 2008 c 94 s 7 are each amended to read as follows:

Every distillery licensed under this title ((~~shall~~)) must make monthly reports to the board pursuant to the regulations. ((~~No such~~

~~distillery shall make any sale of spirits within the state of Washington except to the board and as provided in RCW 66.24.145.~~))

Sec. 118. RCW 66.28.070 and 2006 c 302 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it ((~~shall be~~)) is unlawful for any retail spirits, beer, or wine licensee to purchase spirits, beer, or wine, except from a duly licensed distributor, domestic winery, domestic brewer, or certificate of approval holder with a direct shipment endorsement((~~, or the board~~)).

(2)(a) A spirits, beer, or wine retailer ((~~licensee~~)) may purchase spirits, beer, or wine:

(i) From a government agency ((~~which~~)) that has lawfully seized ((~~beer or wine from~~)) liquor possessed by a licensed ((~~beer~~)) distributor or ((~~wine~~)) retailer((~~, or~~));

(ii) From a board-authorized ((~~retailer~~)) manufacturer or certificate holder authorized by this title to act as a distributor of liquor((~~, or~~));

(iii) From a licensed retailer which has discontinued business if the distributor has refused to accept spirits, beer, or wine from that retailer for return and refund((~~. Beer and wine~~));

(iv) From a retailer whose license or license endorsement permits resale to a retailer of wine and/or spirits for consumption on the premises, if the purchasing retailer is authorized to sell such wine and/or spirits.

(b) Goods purchased under this subsection ((~~shall~~)) (2) must meet the quality standards set by ((~~its~~)) the manufacturer of the goods.

(3) Special occasion licensees holding a special occasion license may only purchase spirits, beer, or wine from a spirits, beer, or wine retailer duly licensed to sell spirits, beer, or wine for off-premises

consumption, ((~~the board,~~)) or from a duly licensed spirits, beer, or wine distributor.

Sec. 119. RCW 66.28.170 and 2004 c 160 s 17 are each amended to read as follows:

It is unlawful for a manufacturer of spirits, wine, or malt beverages holding a certificate of approval ((~~issued under RCW 66.24.270 or 66.24.206~~)) or the manufacturer's authorized representative, a distillery, brewery, or a domestic winery to discriminate in price in selling to any purchaser for resale in the state of Washington. Price differentials for sales of spirits or wine based upon competitive conditions, costs of servicing a purchaser's account, efficiencies in handling goods, or other bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws applicable to goods of all kinds, do not violate this section.

NEW SECTION. **Sec. 120.** A new section is added to chapter 66.28 RCW to read as follows:

(1) No price for spirits sold in the state by a distributor or other licensee acting as a distributor pursuant to this title may be below acquisition cost unless the item sold below acquisition cost has been stocked by the seller for a period of at least six months. The seller may not restock the item for a period of one year following the first effective date of such below cost price.

(2) Spirits sold to retailers for resale for consumption on or off the licensed premises may be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(3) In selling spirits to another retailer, to the extent consistent with the purposes of this act, a spirits retail licensee must comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(4) A distiller holding a license or certificate of compliance as a distiller under this title may act as distributor in the state of spirits of its own production or of foreign-produced spirits it is entitled to import. The distiller must, to the extent consistent with the purposes of this act, comply with all provisions of and regulations under this title applicable to wholesale distributors selling spirits to retailers.

(5) With respect to any alleged violation of this title by sale of spirits at a discounted price, all defenses under applicable trade regulation laws are available, including without limitation good faith meeting of a competitor's lawful price and absence of harm to competition.

(6) Notwithstanding any other provision of law, no licensee may import, purchase, distribute, or accept delivery of any wine that is produced outside of the United States or any distilled spirits without the written consent of the brand owner or its authorized agent.

Sec. 121. RCW 66.28.180 and 2009 c 506 s 10 are each amended to read as follows:

(1) Beer and/or wine distributors.

(a) Every beer ((~~or wine~~)) distributor ((~~shall~~)) must maintain at its liquor-licensed location a price list showing the wholesale prices at which any and all brands of beer ((~~and wine~~)) sold by ((~~such beer and/or wine~~)) the distributor ((~~shall be~~)) are sold to retailers within the state.

(b) Each price list ((~~shall~~)) must set forth:

(i) All brands, types, packages, and containers of beer ((~~or wine~~)) offered for sale by ((~~such beer and/or wine~~)) the distributor; and

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer ((~~and/or wine~~)) distributor may sell or offer to sell any package or container of beer ((~~or wine~~)) to any retail licensee at a price differing from the price for such package or container as shown in the price list, according to rules adopted by the board.

(d) Quantity discounts of sales prices of beer are prohibited. No distributor's sale price of beer may be below the distributor's acquisition cost.

(e) Distributor prices below acquisition cost on a "close-out" item ((~~shall be~~)) are allowed if the item to be discontinued has been listed for a period of at least six months, and upon the further condition that the distributor who offers such a close-out price ((~~shall~~)) may not restock the item for a period of one year following the first effective date of such close-out price.

(f) Any beer ((~~and/or wine~~)) distributor ((~~or employee authorized by the distributor-employer~~)) may sell beer ((~~and/or wine~~)) at the distributor's listed prices to any annual or special occasion retail licensee upon presentation to the distributor ((~~or employee~~)) at the time of purchase or delivery of an original or facsimile license or a special permit issued by the board to such licensee.

(g) Every annual or special occasion retail licensee, upon purchasing any beer ((~~and/or wine~~)) from a distributor, ((~~shall~~)) must immediately cause such beer ((~~or wine~~)) to be delivered to the licensed premises, and the licensee ((~~shall~~)) may not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(h) Beer ((~~and wine~~)) sold as provided in this section ((~~shall~~)) must be delivered by the distributor or an authorized employee either

to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a ((~~domestic winery,~~)) brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of beer of its own production, a licensed retailer may contract with a common carrier to obtain the ((~~product~~)) beer directly from the ((~~domestic winery,~~)) brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees ((~~shall~~)) for beer must be the same at both such places of delivery. Wine sold to retailers must be delivered to the retailer's licensed premises, to a location specified by the retailer and approved for deliveries by the board, or to a carrier engaged by either party to the transaction.

(2) Beer ((~~and wine~~)) suppliers' contracts and memoranda.

(a) Every domestic brewery, microbrewery, ((~~domestic winery,~~)) certificate of approval holder, and beer and/or wine importer offering beer ((~~and/or wine~~)) for sale to distributors within the state and any beer ((~~and/or wine~~)) distributor who sells to other beer ((~~and/or wine~~)) distributors ((~~shall~~)) must maintain at its liquor-licensed location a beer price list and a copy of every written contract and a memorandum of every oral agreement which such brewery ((~~or winery~~)) may have with any beer ((~~or wine~~)) distributor for the supply of beer, which contracts or memoranda ((~~shall~~)) must contain:

(i) All advertising, sales and trade allowances, and incentive programs; and

(ii) All commissions, bonuses or gifts, and any and all other discounts or allowances.

(b) Whenever changed or modified, such revised contracts or memoranda ((~~shall~~)) must also be maintained at its liquor licensed location.

(c) Each price list ((~~shall~~)) must set forth all brands, types, packages, and containers of beer ((~~or wine~~)) offered for sale by such ((~~licensed brewery or winery~~)) supplier.

(d) Prices of a domestic brewery, microbrewery, ((~~domestic winery,~~)) or certificate of approval holder ((~~shall~~)) for beer must be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts of suppliers' prices for beer are prohibited. No price ((~~shall~~)) may be below the supplier's acquisition((~~/~~)) or production cost.

(e) A domestic brewery, microbrewery, ((~~domestic winery,~~)) certificate of approval holder, ((~~beer or wine~~)) importer, or ((~~beer or wine~~)) distributor acting as a supplier to another distributor must file ((~~a distributor appointment~~)) with the board a list of all distributor licensees of the board to which it sells or offers to sell beer.

(f) No domestic brewery, microbrewery, ((~~domestic winery,~~)) or certificate of approval holder may sell or offer to sell any package or container of beer ((~~or wine~~)) to any distributor at a price differing from the price list for such package or container as shown in the price list of the domestic brewery, microbrewery, ((~~domestic winery,~~)) or certificate of approval holder and then in effect, according to rules adopted by the board.

(3) In selling wine to another retailer, to the extent consistent with the purposes of this act, a grocery store licensee with a reseller endorsement must comply with all provisions of and regulations under this title applicable to wholesale distributors selling wine to retailers.

(4) With respect to any alleged violation of this title by sale of wine at a discounted price, all defenses under applicable trade regulation laws are available including, without limitation, good faith

meeting of a competitor's lawful price and absence of harm to competition.

Sec. 122. RCW 66.28.190 and 2003 c 168 s 305 are each amended to read as follows:

((~~RCW 66.28.010~~)) (1) Any other provision of this title notwithstanding, persons licensed under ((~~RCW 66.24.200 as wine distributors and persons licensed under RCW 66.24.250 as beer distributors~~)) this title to sell liquor for resale may sell at wholesale nonliquor food and food ingredients on thirty-day credit terms to persons licensed as retailers under this title, but complete and separate accounting records ((~~shall~~)) must be maintained on all sales of nonliquor food and food ingredients to ensure that such persons are in compliance with ((~~RCW 66.28.010~~)) this title.

(2) For the purpose of this section, "nonliquor food and food ingredients" includes, without limitation, all food and food ingredients for human consumption as defined in RCW 82.08.0293 as it ((~~exists~~)) existed on July 1, 2004.

NEW SECTION. **Sec. 123.** A new section is added to chapter 66.28 RCW to read as follows:

A retailer authorized to sell wine may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one retailer licensed to sell wine. A restaurant retailer authorized to sell spirits may accept delivery of

spirits at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed retailers, to other registered facilities, or to lawful purchasers outside the state; such facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers including at least one restaurant retailer licensed to sell spirits. Nothing in this section authorizes sales of spirits or wine by a retailer holding only an on-sale privilege to another retailer.

Sec. 124. RCW 66.28.280 and 2009 c 506 s 1 are each amended to read as follows:

((~~The legislature recognizes that Washington's current three-tier system, where the functions of manufacturing, distributing, and retailing are distinct and the financial relationships and business transactions between entities in these tiers are regulated, is a valuable system for the distribution of beer and wine.~~)) The legislature ((~~further~~)) recognizes that the historical total prohibition on ownership of an interest in one tier by a person with an ownership interest in another tier, as well as the historical restriction on financial incentives and business relationships between tiers, is unduly restrictive. The legislature finds the ((~~modifications contained in chapter 506, Laws of 2009 are appropriate, because the modifications~~)) provisions of RCW 66.28.285 through 66.28.320 appropriate for all varieties of liquor, because they do not impermissibly interfere with ((~~the goals of orderly marketing of alcohol in the state, encouraging moderation in consumption of alcohol by the citizens of the state,~~)) protecting the public interest and advancing public safety by preventing the use and consumption of

alcohol by minors and other abusive consumption, and promoting the efficient collection of taxes by the state.

NEW SECTION. **Sec. 125.** A new section is added to chapter 66.04 RCW to read as follows:

In this title, unless the context otherwise requires:

(1) "Retailer" except as expressly defined by RCW 66.28.285(5) with respect to its use in RCW 6.28280 through 66.28.315, means the holder of a license or permit issued by the board authorizing sale of liquor to consumers for consumption on and/or off the premises. With respect to retailer licenses, "on-sale" refers to the license privilege of selling for consumption upon the licensed premises.

(2) "Spirits distributor" means a person, other than a person who holds only a retail license, who buys spirits from a domestic distiller, manufacturer, supplier, spirits distributor, or spirits importer, or who acquires foreign-produced spirits from a source outside of the United States, for the purpose of reselling the same not in violation of this title, or who represents such distiller as agent.

(3) "Spirits importer" means a person who buys distilled spirits from a distiller outside the state of Washington and imports such spirits into the state for sale or export.

PART II

LIQUOR CONTROL BOARD--DISCONTINUING RETAIL SALES--TECHNICAL CHANGES

Sec. 201. RCW 43.19.19054 and 1975-'76 2nd ex.s. c 21 s 7 are each amended to read as follows:

The provisions of RCW 43.19.1905 ((~~shall~~)) do not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions.

((~~In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW.~~))

Sec. 202. RCW 66.08.020 and 1933 ex.s. c 62 s 5 are each amended to read as follows:

The administration of this title((~~, including the general control, management and supervision of all liquor stores, shall be~~)) is vested in the liquor control board, constituted under this title.

Sec. 203. RCW 66.08.026 and 2008 c 67 s 1 are each amended to read as follows:

Administrative expenses of the board ((~~shall~~)) must be appropriated and paid from the liquor revolving fund. These administrative expenses ((~~shall~~)) include, but not be limited to: The salaries and expenses of the board and its employees, ((~~the cost of opening additional state liquor stores and warehouses,~~)) legal services, pilot projects, annual or other audits, and other general costs of conducting the business of the board. The administrative expenses ((~~shall~~)) do not include ((~~costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, the cost of operating, maintaining, relocating, and leasing state liquor stores and warehouses, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, agency commissions for contract liquor stores, transaction fees associated with credit or debit card purchases for liquor in state liquor stores and in contract liquor stores pursuant to RCW 66.16.040 and 66.16.041, sales tax, and~~)) those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, or 66.08.210 ((~~and 66.08.220~~)). Agency commissions for contract liquor stores ((~~shall~~)) must be established by the liquor control board after consultation with and approval by the director of the office of financial management. All expenditures and payment of obligations

authorized by this section are subject to the allotment requirements of chapter 43.88 RCW.

Sec. 204. RCW 66.08.030 and 2002 c 119 s 2 are each amended to read as follows:

((~~(1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.~~

~~(2) Without thereby limiting the generality of the provisions contained in subsection (1), it is declared that~~)) The power of the board to make regulations ((~~in the manner set out in that subsection shall~~)) under chapter 34.05 RCW extends to

((~~(a) regulating the equipment and management of stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;~~

~~(b)~~)):

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

((~~(c) governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;~~

~~(d) determining the classes, varieties, and brands of liquor to be kept for sale at any store;~~

~~(e) prescribing, subject to RCW 66.16.080, the hours during which the state liquor stores shall be kept open for the sale of liquor;~~

~~(f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;~~

~~(g)~~)) (2) Prescribing an official seal and official labels and stamps and determining the manner in which they ((~~shall~~)) must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

((~~(h) providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;~~

~~(i)~~)) (3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board ((~~shall~~)) must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

((~~(j)~~)) (4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

((~~(k)~~)) (5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same ((~~shall be~~)) is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

((~~(l)~~)) (6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

((~~(m)~~)) (7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

((~~(n)~~)) (8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

((~~(o)~~)) (9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

((~~(p)~~)) (10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

((~~(q)~~)) (11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

((~~(r)~~)) (12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer ((~~and~~)), wines, and spirits, and regulating the sale of beer ((~~and~~)), wines, and spirits thereunder;

((~~(s)~~)) (13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers ((~~shall~~)) must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

((~~(t)~~)) (14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

((~~(u)~~)) (15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

((~~(v)~~)) (16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

((~~(w)~~)) (17) Providing for the giving of fidelity bonds by any or all of the employees of the board((~~: PROVIDED, That~~)). However, the premiums therefor ((~~shall~~)) must be paid by the board;

((~~(x)~~)) (18) Providing for the shipment ((~~by mail or common carrier~~)) of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

((~~(y)~~)) (19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

((~~(z)~~)) (20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board((~~: PROVIDED,~~)). However, nothing herein contained ((~~shall~~)) may be construed as authorizing the

liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

Sec. 205. RCW 66.24.145 and 2010 c 290 s 2 are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to two liters per person per day. ((~~Spirits sold under this subsection must be purchased from the board and sold at the retail price established by the board.~~)) A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distill spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. ((~~Spirits used for samples must be purchased from the board.~~))

(4) The board ((~~shall~~)) <u>must</u> adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice.

<u>NEW SECTION.</u> **Sec. 206.** A new section is added to chapter 66.24 RCW to read as follows:

Any distiller licensed under this title may act as a retailer and/or distributor to retailers selling for consumption on or off the

licensed premises of spirits of its own production, and any manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state under such certificate. The board must by rule provide for issuance of certificates of approval to spirits suppliers. An industry member operating as a distributor and/or retailer under this section must comply with the applicable laws and rules relating to distributors and/or retailers, except that an industry member operating as a distributor under this section may maintain a warehouse off the distillery premises for the distribution of spirits of its own production to spirits retailers within the state, if the warehouse is within the United States and has been approved by the board.

Sec. 207. RCW 66.24.160 and 1981 1st ex.s. c 5 s 30 are each amended to read as follows:

A ((~~liquor~~)) spirits importer's license may be issued to any qualified person, firm or corporation, entitling the holder thereof to import into the state any liquor other than beer or wine; to store the same within the state, and to sell and export the same from the state; fee six hundred dollars per annum. Such ((~~liquor~~)) spirits importer's license ((~~shall be~~)) is subject to all conditions and restrictions imposed by this title or by the rules and regulations of the board, and ((~~shall be~~)) is issued only upon such terms and conditions as may be imposed by the board. ((~~No liquor importer's license shall be required in sales to the Washington state liquor control board.~~))

Sec. 208. RCW 66.32.010 and 1955 c 39 s 3 are each amended to read as follows:

((~~Except as permitted by~~)) The board may, ((~~no liquor shall be kept or had by any person within this state unless the package in which the liquor was contained had, while containing that liquor, been~~)) to the

extent required to control unlawful diversion of liquor from authorized channels of distribution, require that packages of liquor transported within the state be sealed with ((~~the~~)) such official seal as may be adopted by the board, except in the case of:

(1) ((~~Liquor imported by the board; or~~

~~(2)~~)) Liquor manufactured in the state ((~~for sale to the board or for export~~)); or

((~~(3) Beer,~~)) (2) Liquor purchased within the state or for shipment to a consumer within the state in accordance with the provisions of law; or

((~~(4)~~)) (3) Wine or beer exempted in RCW 66.12.010.

Sec. 209. RCW 66.44.120 and 2011 c 96 s 46 are each amended to read as follows:

(1) No person other than an employee of the board ((~~shall~~)) may keep or have in his or her possession any official seal ((~~prescribed~~)) adopted by the board under this title, unless the same is attached to a package ((~~which has been purchased from a liquor store or contract liquor store~~)) in accordance with the law; nor ((~~shall~~)) may any person keep or have in his or her possession any design in imitation of any official seal prescribed under this title, or calculated to deceive by its resemblance thereto, or any paper upon which any design in imitation thereof, or calculated to deceive as aforesaid, is stamped, engraved, lithographed, printed, or otherwise marked.

(2)(a) Except as provided in (b) of this subsection, every person who willfully violates this section is guilty of a gross misdemeanor and ((~~shall be~~)) is liable on conviction thereof for a first offense to imprisonment in the county jail for a period of not less than three months nor more than six months, without the option of the payment of a fine, and for a second offense, to imprisonment in the county jail for

not less than six months nor more than three hundred sixty-four days, without the option of the payment of a fine.

(b) A third or subsequent offense is a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than two years.

Sec. 210. RCW 66.44.150 and 1955 c 289 s 5 are each amended to read as follows:

If any person in this state buys alcoholic beverages from any person other than ((~~the board, a state liquor store, or some~~)) a person authorized by the board to sell ((~~them, he shall be~~)) alcoholic beverages, he or she is guilty of a misdemeanor.

Sec. 211. RCW 66.44.340 and 1999 c 281 s 11 are each amended to read as follows:

(1) Employers holding grocery store or beer and/or wine specialty shop licenses exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle ((~~beer or wine~~)) liquor in, on or about any establishment holding a ((~~grocery store or beer and/or wine specialty shop~~)) license ((~~exclusively: PROVIDED, That~~)) to sell such liquor, if:

(a) There is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises((~~: PROVIDED, That~~)); and

(b) In the case of spirits, there are at least two adults twenty-one years of age or older on duty supervising the sale of spirits at the licensed premises.

(2) Employees under twenty-one years of age may make deliveries of beer and/or wine purchased from licensees holding grocery store or beer and/or wine specialty shop licenses exclusively, when delivery is made

to cars of customers adjacent to such licensed premises but only, however, when the underage employee is accompanied by the purchaser.

Sec. 212. RCW 19.126.010 and 2003 c 59 s 1 are each amended to read as follows:

(1) The legislature recognizes that both suppliers and wholesale distributors of malt beverages and spirits are interested in the goal of best serving the public interest through the fair, efficient, and competitive distribution of such beverages. The legislature encourages them to achieve this goal by:

(a) Assuring the wholesale distributor's freedom to manage the business enterprise, including the wholesale distributor's right to independently establish its selling prices; and

(b) Assuring the supplier and the public of service from wholesale distributors who will devote their best competitive efforts and resources to sales and distribution of the supplier's products which the wholesale distributor has been granted the right to sell and distribute.

(2) This chapter governs the relationship between suppliers of malt beverages and spirits and their wholesale distributors to the full extent consistent with the Constitution and laws of this state and of the United States.

Sec. 213. RCW 19.126.020 and 2009 c 155 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement of distributorship" means any contract, agreement, commercial relationship, license, association, or any other arrangement, for a definite or indefinite period, between a supplier and distributor.

(2) "Authorized representative" has the same meaning as "authorized representative" as defined in RCW 66.04.010.

(3) "Brand" means any word, name, group of letters, symbol, or combination thereof, including the name of the distiller or brewer if the distiller's or brewer's name is also a significant part of the product name, adopted and used by a supplier to identify ((~~a~~)) specific spirits or a specific malt beverage product and to distinguish that product from other spirits or malt beverages produced by that supplier or other suppliers.

(4) "Distributor" means any person, including but not limited to a component of a supplier's distribution system constituted as an independent business, importing or causing to be imported into this state, or purchasing or causing to be purchased within this state, any spirits or malt beverages for sale or resale to retailers licensed under the laws of this state, regardless of whether the business of such person is conducted under the terms of any agreement with a distiller or malt beverage manufacturer.

(5) "Importer" means any distributor importing spirits or beer into this state for sale to retailer accounts or for sale to other distributors designated as "subjobbers" for resale.

(6) "Malt beverage manufacturer" means every brewer, fermenter, processor, bottler, or packager of malt beverages located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of malt beverages in this state with any wholesale distributor doing business in the state of Washington.

(7) "Person" means any natural person, corporation, partnership, trust, agency, or other entity, as well as any individual officers, directors, or other persons in active control of the activities of such entity.

(8) "Spirits manufacturer" means every distiller, processor, bottler, or packager of spirits located within or outside this state, or any other person, whether located within or outside this state, who enters into an agreement of distributorship for the resale of spirits in this state with any wholesale distributor doing business in the state of Washington.

(9) "Successor distributor" means any distributor who enters into an agreement, whether oral or written, to distribute a brand of spirits or malt beverages after the supplier with whom such agreement is made or the person from whom that supplier acquired the right to manufacture or distribute the brand has terminated, canceled, or failed to renew an agreement of distributorship, whether oral or written, with another distributor to distribute that same brand of spirits or malt beverages.

((~~(9)~~)) (10) "Supplier" means any spirits or malt beverage manufacturer or importer who enters into or is a party to any agreement of distributorship with a wholesale distributor. "Supplier" does not include: (a) Any ((~~domestic~~)) distiller licensed under RCW 66.24.140 or 66.24.145 and producing less than sixty thousand proof gallons of spirits annually or any brewery or microbrewery licensed under RCW 66.24.240 and producing less than two hundred thousand barrels of malt liquor annually; (b) any brewer or manufacturer of malt liquor producing less than two hundred thousand barrels of malt liquor annually and holding a certificate of approval issued under RCW 66.24.270; or (c) any authorized representative of distillers or malt liquor manufacturers who holds an appointment from one or more distillers or malt liquor manufacturers which, in the aggregate, produce less than two hundred thousand barrels of malt liquor or sixty thousand proof gallons of spirits.

((~~(10)~~)) (11) "Terminated distribution rights" means distribution rights with respect to a brand of malt beverages which are lost by a

terminated distributor as a result of termination, cancellation, or nonrenewal of an agreement of distributorship for that brand.

((~~(11)~~)) (12) "Terminated distributor" means a distributor whose agreement of distributorship with respect to a brand of spirits or malt beverages, whether oral or written, has been terminated, canceled, or not renewed.

Sec. 214. RCW 19.126.040 and 2009 c 155 s 3 are each amended to read as follows:

Wholesale distributors are entitled to the following protections which are deemed to be incorporated into every agreement of distributorship:

(1) Agreements between wholesale distributors and suppliers ((~~shall~~)) must be in writing;

(2) A supplier ((~~shall~~)) must give the wholesale distributor at least sixty days prior written notice of the supplier's intent to cancel or otherwise terminate the agreement, unless such termination is based on a reason set forth in RCW 19.126.030(5) or results from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor. The notice ((~~shall~~)) must state all the reasons for the intended termination or cancellation. Upon receipt of notice, the wholesale distributor ((~~shall have~~)) has sixty days in which to rectify any claimed deficiency. If the deficiency is rectified within this sixty-day period, the proposed termination or cancellation is null and void and without legal effect;

(3) The wholesale distributor may sell or transfer its business, or any portion thereof, including the agreement, to successors in interest upon prior approval of the transfer by the supplier. No supplier may unreasonably withhold or delay its approval of any transfer, including wholesaler's rights and obligations under the terms of the agreement,

if the person or persons to be substituted meet reasonable standards imposed by the supplier;

(4) If an agreement of distributorship is terminated, canceled, or not renewed for any reason other than for cause, failure to live up to the terms and conditions of the agreement, or a reason set forth in RCW 19.126.030(5), the wholesale distributor is entitled to compensation from the successor distributor for the laid-in cost of inventory and for the fair market value of the terminated distribution rights. For purposes of this section, termination, cancellation, or nonrenewal of a distributor's right to distribute a particular brand constitutes termination, cancellation, or nonrenewal of an agreement of distributorship whether or not the distributor retains the right to continue distribution of other brands for the supplier. In the case of terminated distribution rights resulting from a supplier acquiring the right to manufacture or distribute a particular brand and electing to have that brand handled by a different distributor, the affected distribution rights will not transfer until such time as the compensation to be paid to the terminated distributor has been finally determined by agreement or arbitration;

(5) When a terminated distributor is entitled to compensation under subsection (4) of this section, a successor distributor must compensate the terminated distributor for the fair market value of the terminated distributor's rights to distribute the brand, less any amount paid to the terminated distributor by a supplier or other person with respect to the terminated distribution rights for the brand. If the terminated distributor's distribution rights to a brand of spirits or malt beverages are divided among two or more successor distributors, each successor distributor must compensate the terminated distributor for the fair market value of the distribution rights assumed by that successor distributor, less any amount paid to the terminated distributor by a supplier or other person with respect to the

terminated distribution rights assumed by the successor distributor. A terminated distributor may not receive total compensation under this subsection that exceeds the fair market value of the terminated distributor's distribution rights with respect to the affected brand. Nothing in this section ((~~shall~~)) may be construed to require any supplier or other third person to make any payment to a terminated distributor;

(6) For purposes of this section, the "fair market value" of distribution rights as to a particular brand means the amount that a willing buyer would pay and a willing seller would accept for such distribution rights when neither is acting under compulsion and both have knowledge of all facts material to the transaction. "Fair market value" is determined as of the date on which the distribution rights are to be transferred in accordance with subsection (4) of this section;

(7) In the event the terminated distributor and the successor distributor do not agree on the fair market value of the affected distribution rights within thirty days after the terminated distributor is given notice of termination, the matter must be submitted to binding arbitration. Unless the parties agree otherwise, such arbitration must be conducted in accordance with the American arbitration association commercial arbitration rules with each party to bear its own costs and attorneys' fees;

(8) Unless the parties otherwise agree, or the arbitrator for good cause shown orders otherwise, an arbitration conducted pursuant to subsection (7) of this section must proceed as follows: (a) The notice of intent to arbitrate must be served within forty days after the terminated distributor receives notice of terminated distribution rights; (b) the arbitration must be conducted within ninety days after service of the notice of intent to arbitrate; and (c) the arbitrator or

arbitrators must issue an order within thirty days after completion of the arbitration;

(9) In the event of a material change in the terms of an agreement of distribution, the revised agreement must be considered a new agreement for purposes of determining the law applicable to the agreement after the date of the material change, whether or not the agreement of distribution is or purports to be a continuing agreement and without regard to the process by which the material change is effected.

NEW SECTION. **Sec. 215.** The following acts or parts of acts are each repealed:

(1) RCW 66.08.070 (Purchase of liquor by board--Consignment not prohibited--Warranty or affirmation not required for wine or malt purchases) and 1985 c 226 s 2, 1973 1st ex.s. c 209 s 1, & 1933 ex.s. c 62 s 67;

(2) RCW 66.08.075 (Officer, employee not to represent manufacturer, wholesaler in sale to board) and 1937 c 217 s 5;

(3) RCW 66.08.160 (Acquisition of warehouse authorized) and 1947 c 134 s 1;

(4) RCW 66.08.165 (Strategies to improve operational efficiency and revenue) and 2005 c 231 s 1;

(5) RCW 66.08.166 (Sunday sales authorized--Store selection and other requirements) and 2005 c 231 s 2;

(6) RCW 66.08.167 (Sunday sales--Store selection) and 2005 c 231 s 4;

(7) RCW 66.08.220 (Liquor revolving fund--Separate account--Distribution) and 2011 c 325 s 8, 2009 c 271 s 4, 2007 c 370 s 15, 1999 c 281 s 2, & 1949 c 5 s 11;

(8) RCW 66.08.235 (Liquor control board construction and maintenance account) and 2011 c 5 s 918, 2005 c 151 s 4, 2002 c 371 s 918, & 1997 c 75 s 1;

(9) RCW 66.16.010 (Board may establish--Price standards--Prices in special instances) and 2005 c 518 s 935, 2003 1st sp.s. c 25 s 928, 1939 c 172 s 10, 1937 c 62 s 1, & 1933 ex.s. c 62 s 4;

(10) RCW 66.16.040 (Sales of liquor by employees--Identification cards--Permit holders--Sales for cash--Exception) and 2005 c 206 s 1, 2005 c 151 s 5, 2005 c 102 s 1, 2004 c 61 s 1, 1996 c 291 s 1, 1995 c 16 s 1, 1981 1st ex.s. c 5 s 8, 1979 c 158 s 217, 1973 1st ex.s. c 209 s 3, 1971 ex.s. c 15 s 1, 1959 c 111 s 1, & 1933 ex.s. c 62 s 7;

(11) RCW 66.16.041 (Credit and debit card purchases--Rules--Provision, installation, maintenance of equipment by board--Consideration of offsetting liquor revolving fund balance reduction) and 2011 1st sp.s. c ... (ESSB 5921) s 16, 2005 c 151 s 6, 2004 c 63 s 2, 1998 c 265 s 3, 1997 c 148 s 2, & 1996 c 291 s 2;

(12) RCW 66.16.050 (Sale of beer and wine to person licensed to sell) and 1933 ex.s. c 62 s 8;

(13) RCW 66.16.060 (Sealed packages may be required, exception) and 1943 c 216 s 1 & 1933 ex.s. c 62 s 9;

(14) RCW 66.16.070 (Liquor cannot be opened or consumed on store premises) and 2011 c 186 s 3 & 1933 ex.s. c 62 s 10;

(15) RCW 66.16.100 (Fortified wine sales) and 1997 c 321 s 42 & 1987 c 386 s 5;

(16) RCW 66.16.110 (Birth defects from alcohol--Warning required) and 1993 c 422 s 2;

(17) RCW 66.16.120 (Employees working on Sabbath) and 2005 c 231 s 5; and

(18) RCW 66.28.045 (Furnishing samples to board--Standards for accountability--Regulations) and 1975 1st ex.s. c 173 s 9.

NEW SECTION. **Sec. 216.** The following acts or parts of acts are each repealed:

(1) ESSB 5942 ss 1 through 6, as later assigned a session law number and/or codified;

(2) ESSB 5942 ss 7 through 10, as later assigned a session law number; and

(3) Any act or part of act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, adopted subsequent to May 25, 2011 in any 2011 special session.

PART III

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 301.** This act does not increase any tax, create any new tax, or eliminate any tax. Section 106 of this act applies to spirits licensees upon the effective date of this section, but all taxes presently imposed by RCW 82.08.150 on sales of spirits by or on behalf of the liquor control board continue to apply so long as the liquor control board makes any such sales.

NEW SECTION. **Sec. 302.** A new section is added to chapter 66.24 RCW to read as follows:

The distribution of spirits license fees under sections 103 and 105 of this act through the liquor revolving fund to border areas, counties, cities, towns, and the municipal research center must be made in a manner that provides that each category of recipients receive, in the aggregate, no less than it received from the liquor revolving fund during comparable periods prior to the effective date of this section. An additional distribution of ten million dollars per year from the spirits license fees must be provided to border areas, counties,

cities, and towns through the liquor revolving fund for the purpose of enhancing public safety programs.

NEW SECTION. **Sec. 303.** The department of revenue must develop rules and procedures to address claims that this act unconstitutionally impairs any contract with the state and to provide a means for reasonable compensation of claims it finds valid, funded first from revenues based on spirits licensing and sale under this act.

NEW SECTION. **Sec. 304.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of this act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 305.** This act takes effect upon approval by the voters. Section 216, subsections (1) and (2) of this act take effect if Engrossed Substitute House Bill No. 5942 is enacted by the legislature in 2011 and the bill, or any portion of it, becomes law. Section 216, subsection (3) of this act takes effect if any act or part of an act relating to the warehousing and distribution of liquor, including the lease of the state's liquor warehousing and distribution facilities, is adopted subsequent to May 25, 2011 in any 2011 special session.

Fiscal Impact Statement for Initiative 1183

The fiscal impact cannot be precisely estimated because the private market will determine bottle cost and markup for spirits. Using a range of assumptions, total State General Fund revenues increase an estimated $216 million to $253 million and total local revenues increase an estimated $186 million to $227 million, after Liquor Control Board one-time and ongoing expenses, over six fiscal years. A one-time net state revenue gain of $28.4 million is estimated from sale of the state liquor distribution center. One-time debt service costs are $5.3 million. Ongoing new state costs are estimated at $158,600 over six fiscal years.

General Assumptions

- The initiative uses the term "spirits" to describe alcoholic beverages that are distilled instead of fermented. For purposes of the fiscal impact statement, the term "liquor" is used for "spirits" to maintain consistent terminology. Beer and wine are not spirits or liquor.
- Estimates are described using the state's fiscal year (FY) of July 1 through June 30.
- New liquor distributor licenses and new liquor retailer licenses are available beginning Feb. 8, 2012. There is no limit on the number of licenses that can be issued.
- Liquor distributor licensees can begin making sales of liquor March 1, 2012. Liquor retailer licensees can begin making sales of liquor June 1, 2012.
- By June 15, 2012, the state will no longer operate the state liquor distribution center or state liquor stores.
- Estimates assume 1,428 licensed liquor retailers based on research from implementation of Substitute Senate Bill 6329 that authorized beer and wine tasting at grocery stores with a fully enclosed retail area of 9,000 square feet and the current number of state-operated and contract-operated liquor stores (328). The number of licenses is assumed to be constant for each fiscal year.
- Estimates assume 184 licensed liquor distributors, based on the number of current Washington State Liquor Control Board (LCB) licensed beer and wine distributors, wine distributors, distilleries and liquor importers. The number of licenses is assumed to be constant for each fiscal year.
- Estimates of impacts are measured against the June 2011 LCB revenue forecast (forecast).
- Retail liquor liter sales are estimated to grow 5 percent from increased access to liquor. This assumption is based on an academic study and growth experienced in Alberta, Canada, after converting from state-operated liquor stores to private liquor stores. A decrease in liquor liter sales is estimated using the forecast price elasticity assumption of 0.49 percent. Price elasticity is a method used to calculate the change in consumption of a good when price increases or decreases. For every 1 percent increase/decrease in price, liquor liter sales increase/decrease 0.49 percent. Growth from increased access and price elasticity is in addition to normal 3 percent growth in liquor liter sales assumed in the forecast.

State and Local Revenues

Actual fiscal impacts depend on liquor bottle cost in the private market and the markup applied by both private liquor distributors and retailers. Therefore, there is a wide range of potential fiscal impacts.

To estimate gains or losses to the state and local governments, the fiscal impact statement used a model developed for prior initiatives, adjusted to reflect the content of this initiative. The model measures the difference between LCB forecasted liquor revenues and the sum of the revenue gains and losses generated under the initiative using the set of assumptions set forth below.

Total Estimated State General Fund Revenues

Fiscal Year	2012	2013	2014	2015	2016	2017	TOTAL
Low Markup	$5,404,000	$51,373,000	$52,007,000	$36,083,000	$35,669,000	35,244,000	$215,780,000
High Markup	$8,777,000	$59,054,000	$58,372,000	$42,164,000	$42,204,000	$42,260,000	$252,831,000

Total Estimated Local Government Revenues

Fiscal Year	2012	2013	2014	2015	2016	2017	TOTAL
Low Markup	$6,012,000	$56,913,000	$42,500,000	$27,973,000	$26,757,000	$25,492,000	$185,647,000
High Markup	$8,361,000	$63,034,000	$50,741,000	$35,770,000	$34,949,000	$34,098,000	$226,953,000

State and Local Government Revenue Assumptions

- LCB's forecasted average bottle price for a liter of liquor (before taxes and markup) is used to estimate both state and private market bottle price.
- State's markup on liquor is 51.9 percent during FY 2012 and FY 2013, and 39.2 percent thereafter.
- Total private distributor/retailer markup for liquor sold in stores is set at a low of 52 percent and a high of 72 percent from March 1, 2012, to March 1, 2014. Thereafter, the private market markup is assumed to be a low of 47 percent and a high of 67 percent. The selected range was based on the following sources:
    - Low markup — 25 percent — is based on U.S. Internal Revenue Service data (sales revenue minus cost of goods) of retail food, beverage and liquor stores throughout the United States.
    - High markup — 45 percent — is the total liquor markup contained in the Washington State Auditor review and is based on information from the Distilled Spirits Council of the United States.
    - To these percentages, 27 percent is added through Feb. 28, 2014, and 22 percent is added thereafter. These percentages represent the total amount of new liquor distributor and retailer license fees under the initiative. While individual distributor and retailer actions will vary, academic research supports an assumption that, in the aggregate statewide, the value of the new liquor distributor and retailer license fees will be passed on to the consumer in the private market markup.

Markup Assumptions

Fiscal Year	2012	2013	July 1, 2013, to Feb. 28, 2014	March 1, 2014, to June 30, 2014	2015	2016	2017
State Markup	51.9%	51.9%	39.2%	39.2%	39.2%	39.2%	39.2%
Low Markup	52%	52%	52%	47%	47%	47%	47%
High Markup	72%	72%	72%	67%	67%	67%	67%

- The initiative imposes a new liquor distributor license fee of 10 percent of total liquor revenues from March 1, 2012, to March 1, 2014; the fee decreases to 5 percent thereafter. The initiative imposes a new liquor retailer license fee of 17 percent of total liquor revenues beginning June 1, 2012.

- Based on inventory information from the Retail Owners Institute®, private liquor stores are estimated to maintain two months of liquor inventory. In contrast, state-operated liquor stores maintain 1.2 months of liquor inventory. Therefore, an additional 0.8 month of liquor liter sales to liquor retailers is assumed during FY 2012.
- If the new liquor distributor license fee totals less than $150 million by March 31, 2013, these licensees must pay the difference between $150 million and actual receipts by May 31, 2013. The model estimates that $84 million to $91 million will be paid by licensees during FY 2013 due to this requirement.
- The initiative sets a $1,320 license fee for each liquor distribution location and a $166 license fee for each liquor retailer license. Both fees are due at the time of license renewal.
- Liquor distributor licensees are assumed to be subject to the wholesaling business and occupation (B&O) tax. Liquor retailer licensees are assumed be subject to the retailing B&O tax.
- Liquor liter taxes and liquor sales taxes are amended by the initiative, but these changes are assumed not to increase, create or eliminate any tax.
- Except for the loss of sales in state-operated liquor stores, estimates do not assume any change in pricing or volume of sales of beer and wine.
- State-operated liquor stores sell Washington State Lottery products to the public. The estimate assumes 25 percent of these sales will be lost and remaining sales will occur in other outlets selling Washington State Lottery products. This revenue loss is estimated to be $1.8 million over six years.
- Estimates of sales by current restaurant licensees who sell liquor at retail are limited to changes from price elasticity and the loss of the state's 15 percent quantity price discount to these licensees.
- Estimates do not assume any change in sales by liquor stores operated on military bases. Such sales are assumed not to be subject to liquor liter taxes, liquor sales taxes or B&O tax.
- Estimates do not assume any change in sales by liquor stores operated by tribes. Such sales are assumed to be subject to liquor liter taxes and liquor sales taxes based on current agreements between tribes and LCB, but are not subject to B&O tax.
- No additional change is assumed for tax avoidance/non-compliance by consumers or migration of sales in and out of state by consumers. These items are assumed in the forecast price elasticity assumption.
- Revenue from the state markup used to pay for the state liquor distribution center and state liquor store costs are netted to zero. The initiative eliminates both the revenue (markup) and the costs (state liquor distribution center and state liquor stores), which results in no additional revenue to the state.
- The initiative requires new liquor distributor and retailer fees to be deposited into the Liquor Revolving Fund. The Liquor Revolving Fund is distributed by statute in the following order:
    1. Payment of LCB administrative costs;
    2. Distributions to state accounts for specific purposes (such as drug and alcohol research at the University of Washington and Washington State University);
    3. Border areas (cities, towns and counties adjacent to the Canadian border); and
    4. The remainder after these distributions: a) 50 percent to the State General Fund; b) 10 percent to counties; and 3) 40 percent to cities and towns.

  Therefore, the model first reduces the Liquor Revolving Fund by LCB costs, one-time and ongoing, to determine total revenues distributed to the State General Fund and local governments. Other revenues (beer taxes, wine taxes, penalties, etc.) deposited into the Liquor Revolving Fund are assumed to be unaffected by the initiative and continue to be shared between the state and local governments.

Specific Local Government Revenue Assumptions

- New liquor distributor and retailers license fees must be used to maintain, in the aggregate, Liquor Revolving Fund distributions to counties, cities, towns, border areas and the Municipal Research Service Center in an amount no less than the amount received in comparable periods. For purposes of the model, comparable period is measured by funds forecasted for calendar year 2011. The model estimates that local distributions will exceed the maintenance level required by the initiative each fiscal year.
- An additional $10 million is also provided to counties, cities, towns and border areas.
- Approximately 38 cities and towns impose a local B&O tax. Using data from the Washington State Department of Revenue's 2008 Tax Reference Manual, total local B&O tax is approximately 10 percent of total state B&O tax. Assuming this ratio, $3 million is estimated as new local B&O taxes from liquor sales over six fiscal years.
- Total local government revenues are the sum of the increased Liquor Revolving Fund distributions, the additional $10 million and local B&O tax.

Specific State Asset Assumptions

The sale of the state liquor distribution center is estimated to generate a potential net $28.4 million in revenue. Because the sale date cannot be precisely determined, this revenue is stated separately and excluded from the total State General Fund revenue estimates in the first table above. The value of the state liquor distribution center is estimated to be $20.4 million, based on the King County Assessor's Office 2011 assessed value of the property. The sale of the equipment in the state liquor distribution center is estimated to be $8 million, based on the 2010 Washington State Auditor review, which assumed the sale of $16 million in assets would return about $8 million. Costs to sell the state liquor distribution center are estimated to total $1 million at the time of sale.

The initiative requires LCB to sell by public auction the right — at each state-owned store location — to operate a liquor store upon the premises without regard to the size of the premises if the applicant otherwise qualifies for a liquor retailer license. All state-operated liquor stores are leased and cannot be transferred or assigned. In addition, of the 166 state-operated liquor stores, 127 are located within one block of a grocery store. Because these factors (location, competition and lessor) will vary by state-operated liquor store and will affect the value of each operating right, revenue generated from the auction is indeterminate and not assumed in the model.

The initiative would repeal Engrossed Substitute Senate Bill 5942 (ESSB 5942), which directed the Office of Financial Management to conduct a competitive process for the selection of a private sector entity to lease and modernize the state's liquor warehousing and distribution facilities. Under ESSB 5942, if a proposal is determined to be in the best interests of the state by the Office of Financial Management after consultation with LCB and an advisory board created through the legislation, LCB may contract with that private entity for the lease of the state's liquor warehousing and distribution facilities. Because it is not known if LCB will enter into a contract, no revenue is assumed in the model.

State and Local Expenditure Estimate Assumptions

Revenue gains will accrue to existing accounts, the largest being the State General Fund, which may be used for any governmental purpose as appropriated by the Legislature.

Washington State Lottery proceeds in excess of expenses are deposited into the State Opportunity Pathways Account to support programs in higher education and early learning. Due to the loss of some lottery product sales in state liquor stores, it is estimated that funds to this account will decrease $1.8 million over six fiscal years.

Each county and city is required to spend 2 percent of its share of liquor revenues on alcohol and chemical dependency services, and these expenditures will increase. The additional $10 million distributed to cities, towns, counties and border areas are for enhancing public safety programs. The remaining revenue can be used for any allowable local government purpose.

State and Local Cost Estimate Assumptions
The fiscal impact statement does not estimate state costs or state savings due to social impacts from approval of the initiative. No costs are assumed for local governments.

Liquor Control Board Costs
Estimated one-time and ongoing LCB costs are assumed to be paid by the Liquor Revolving Fund. Therefore, payment of the following costs is reflected in the State General Fund revenue estimate.

LCB ongoing costs for licensing, enforcement and administration are estimated to increase by $350,000 for new fee-collection costs and implementing the "responsible vendor program." No state costs from increased enforcement activities are assumed in the estimate.

Assuming a closure date of June 15, 2012, LCB will incur one-time state costs associated with managing the closure of the state liquor distribution center and state liquor stores. There will be additional one-time costs for issuing new licenses. These state costs are estimated to total $28.7 million during FYs 2012 and 2013:

- Unemployment, sick leave and vacation buyout costs for state employees estimated at $11.8 million.
- Information technology changes and staff to issue new licenses estimated at $2.7 million.
- Staffing costs to coordinate the sale of existing inventory, termination of contract store leases, surplus of store fixtures and auction of state-operated store operating rights estimated at $11 million.
- Final audits of each state and contract liquor store estimated at $1.9 million.
- Project management and additional human resource staff estimated at $1.3 million.

Department of Revenue Costs
The Washington State Department of Revenue will administer the collection of liquor excise tax from licensed liquor distributors and retailers. Costs include additional staff, information technology changes, rule-making and policy activities, taxpayer mailings and workshops, supplies and materials. Total one-time state costs are estimated to total $120,100 during FY 2012. Ongoing costs are estimated to be $38,500 each fiscal year beginning FY 2013.

State Indebtedness
There is $5.3 million in debt service costs for a Certificate of Participation bond for the state liquor distribution center that is scheduled to be paid by Dec. 1, 2013. This one-time state cost is assumed in FY 2014.

Washington Secretary of State Sam Reed

Initiative Measure 1183: Explanatory Statement

The Law as it Presently Exists

In Washington, the state sells and controls the distribution and sale of “spirits.” The term “spirits” refers to alcoholic beverages also called “hard liquor” (whiskies, vodka, gin, etc.). Spirits include beverages containing distilled alcohol and wines exceeding twenty-four percent alcohol by volume. Spirits do not include lower alcohol content beverages such as flavored malt beverages, beer, or wines containing less than twenty-four percent alcohol by volume.

In Washington, spirits are sold at retail at state-run liquor stores and at “contract liquor stores.” Contract liquor stores are private businesses that sell spirits and other liquor under a contract with the state. Washington has approximately 165 state liquor stores and 160 contract liquor stores.

The Washington State Liquor Control Board (“the Board”) operates the state liquor stores and oversees the contract liquor stores. Among its responsibilities, the Board regulates liquor advertising in the state. The Board, however, cannot advertise liquor sales.

The Board sets the price for spirits sold at state-run and contract liquor stores based on the wholesale cost of the spirits, taxes, and a markup authorized by statute. The Board also collects the taxes imposed on the retail sale of spirits, and collects license fees and penalties. The proceeds received from the sale of spirits, the tax revenues on spirits, and license fees are distributed to cities, counties, and the state. Certain revenues are dedicated to funding programs addressing alcohol and drug abuse treatment and prevention.

In Washington, manufacturers and suppliers of spirits may only sell spirits to the Board. The Board acts as the sole distributor of spirits sold in the state liquor stores and contract liquor stores, and sold by restaurants and certain other licensed sellers. Under a law effective June 15, 2011, the state must examine whether to lease the state’s liquor distribution facilities to a private party, and whether such a lease would produce better financial returns for the state.

Existing law allows private parties to sell or distribute alcoholic beverages that are not spirits, such as wine or beer. Wine and beer sellers are licensed by the state. There are different licenses for each of “three tiers” of the wine and beer business: (1) manufacturing; (2) distribution; and (3) retail sales. Existing law regulates the financial relationships and business transactions allowed between manufacturers, distributors, and retailers. While there are some exceptions, retailers are allowed to purchase wine or beer only from distributors. Similarly, distributors are allowed to purchase only from manufacturers, with certain exceptions.

Existing law requires wine and beer manufacturers and distributors to maintain published price lists and offer the same price to every buyer. This requirement of uniform pricing prevents manufacturers or distributors from selling wine or beer at discounted prices to select customers, such as a quantity discount or other business reason for a discount. Existing law also requires wine and beer retailers to receive all wine and beer at their retail store and to not take delivery or store wine or beer at a separate warehouse location.

The Effect of the Proposed Measure, if Approved

Initiative 1183 allows private parties to sell and distribute spirits, and alters the Liquor Control Board’s powers and duties. It eliminates the Board’s power to operate state liquor stores, to supervise the

contract liquor stores, to distribute liquor, and to set the prices of spirits. Initiative 1183 directs the Board to close state liquor stores by June 1, 2012. It directs the Board to sell assets connected with liquor sales and distribution, and to sell at auction the right to operate a private liquor store at the location of any existing state liquor store. Initiative 1183 repeals a 2011 law that directed the state to examine the financial benefit of leasing the state liquor distribution facilities to a private party.

Under Initiative 1183, qualifying private parties may obtain licenses to distribute spirits or to sell spirits at retail. A retail spirits license allows the retailer to sell spirits directly to consumers, and allows the sale of up to 24 liters of spirits for resale at a licensed premise, such as to a restaurant. Initiative 1183 allows private distributors to start selling spirits on March 1, 2012, and private retail spirits sales to start on June 1, 2012.

To obtain a retail spirits license, a store must have at least 10,000 square feet of enclosed retail space in a single structure. However, Initiative 1183 also allows a retail spirits license for a store at the location of a former state liquor store or contract liquor store, even if the store is smaller than 10,000 square feet. It also allows smaller stores where there are no 10,000 square foot licensed spirits stores in the area. Initiative 1183 requires retail stores to participate in training their employees to prevent sales of alcohol to minors and inebriated persons.

Initiative 1183 allows local governments and the public to provide input before issuance of a license to sell spirits. Initiative 1183 preserves local government power to zone and regulate the location of liquor stores.

Initiative 1183 would not change the existing taxes on spirits. Initiative 1183 would require spirits retailers and distributors to pay license fees to the state. Retail stores would pay a fee of seventeen percent of gross revenues from spirits sales under the license, plus an annual $166 fee. Spirits distributors would pay an annual $1,320 fee, plus a percentage of gross revenues from spirits sales under the license. During the first two years of a spirits distributor license, the distributor license fee would be ten percent of the distributor’s gross spirits sales. After two years, the spirits distributor fee would drop to five percent of the distributor’s gross spirits sales.

Initiative 1183 also requires that all persons holding spirits distributor licenses must have together paid a total of one hundred fifty million dollars in spirits distributor license fees by March 31, 2013. If the total license fees received from all distributor license holders is less than one hundred fifty million dollars, the Board must collect additional spirits distributor license fees to make up the difference. This additional fee would be allocated among the persons who held a spirits distributor license at any time before March 31, 2013.

In addition to existing laws controlling the distribution of moneys received by the Board, a portion of fees from retail spirits licenses and spirits distributor licenses would be distributed to border areas, counties, and cities to enhance public safety programs.

Initiative 1183 also changes laws that regulate the retailers, distributors, and manufacturers of wine. Initiative 1183 eliminates the requirement that distributors and manufacturers of wine sell at a uniform price, which would allow the sale of wine at different prices based on business reasons. Spirits could also be sold to different distributors and retailers at different prices. Beer manufacturers and distributors, however, would continue to be regulated by existing laws requiring uniform pricing. Under Initiative 1183, retailers could accept delivery of wine at a retail store or at a warehouse location. Under Initiative 1183, a store licensed to sell wine at retail may also obtain an endorsement allowing the store to sell to license holders who sell wine for consumption on the premise. For example, this would allow the store to sell wine to a restaurant that resells the wine by the glass or bottle to its customers.

Statement For

Initiative 1183 gets our state government out of the business of distributing and selling liquor
I-1183 ends Washington's outdated state liquor store monopoly and allows consumers to buy spirits at licensed retail stores, like consumers do in most other states. It allows a limited number of grocery and retail stores to get licenses to sell liquor, if approved by the Liquor Control Board, and prevents liquor sales at gas stations and convenience stores.

1183 provides vitally needed new revenues for state and local services
Distributors and stores approved for liquor licenses will pay a percentage of their sales as license fees, generating hundreds of millions of dollars in new revenues for state and local services like education, health care and public safety.

1183 strengthens laws governing the sale of liquor
1183 doubles penalties for retailers who sell spirits to minors, ensures local input into which grocery and retail stores get liquor licenses, mandates new training programs and increases compliance requirements for retailers, and dedicates new revenues to increase funding for local police, fire, and emergency services statewide.

1183 eliminates outdated wine regulations
1183 eliminates outdated regulations that currently restrict price competition and wholesale distribution of wine in Washington. This will help small Washington wineries and lead to better selections and more competitive wine prices for consumers.

Yes on 1183 will create true competition in liquor and wine distribution and sales, strengthen liquor law enforcement, benefit Washington taxpayers and consumers, and generate vitally needed new revenues for state and local services.

Statement Against

Last year more than one million Washingtonians voted "no" twice to big box stores and grocery chains selling liquor. Yet despite the clear message we sent, they're back again spending millions to push I-1183. What part of "*no*" don't they understand?

More Consumption, More Problems
Alcohol already kills more kids than all other drugs combined. Yet 1183 allows more than four times as many liquor outlets. The Centers for Disease Control recently came out against privatization because it leads to a 48 percent or more increase in problem drinking. That means more underage drinking and crime, overburdening police and first responders.

Mini-Mart Loophole
1183 is another flawed measure designed to benefit the big chains, not the public. It gives chains an unfair competitive advantage over smaller grocers, while a major loophole written into the measure will allow mini-marts to sell liquor across much of the state. State stores have one of the best enforcement rates in the country; groceries, gas stations and mini-marts sell to teenagers one time out of four.

Higher Taxes on Consumers
The sponsors of this measure say it increases government revenue. But they do it by creating a new 27 percent tax passed on to consumers. Ask yourself: when was the last time a big corporation spent millions, *twice*, to try and save us money?

Firefighters, first responders, and law enforcement leaders oppose 1183. It's too risky, and too high a price to pay for a little convenience. Vote *no* on 1183.

Rebuttal of Statement Against

The campaign against 1183 is funded by big national liquor distributors that profit from Washington's outdated liquor monopoly. Their claims are false and self-serving. 1183 specifically prevents liquor sales at gas stations and convenience stores, doubles penalties for selling spirits to minors and generates hundreds of millions in new revenues to schools, health care, police and emergency services *without raising taxes*. That's why community leaders, law enforcement officials and taxpayer advocates support *yes* on 1183.

Rebuttal of Statement For

The Liquor Control Board determined 1183 contains loopholes that enable mini-marts and gas stations to sell liquor. Local independent grocers oppose 1183 because it tilts the rules against them. And 1183 creates a new 27 percent hidden tax passed onto consumers, raising taxes to fund corporate profits. Four times the number of outlets is too much. 1183 is another flawed, risky initiative putting corporate profits over our safety. The responsible choice: Vote *no* 1183.

Statement Prepared By

Anthony Anton, President, Washington Restaurant Association; **Eric Robertson**, Former Captain, Washington State Patrol; **Daniel J. Evans**, Former Governor of Washington; **Cherie Myers**, Washington State Chair, Northwest Grocery Association; **Bob Edwards**, Former President, Association of Washington Cities; **John Morgan**, Winemaker/Board Member, Family Wineries of Washington State.

Contact: (800) 956-3460; info@YESon1183.com; www.YESon1183.com

Statement Prepared By

Jim Cooper, Washington Association for Substance Abuse and Violence Prevention; **Alice Woldt**, Co-Director, Faith Action Network; **Kelly Fox**, President, Washington State Council of Firefighters; **Sharon Ness**, RN, Acute Care Nurse; **Craig Soucy**, Emergency Medical Technician, Renton Fire and Emergency Services; **Linda Thompson**, Executive Director, Greater Spokane Substance Abuse Council.

Contact: (206) 436-6535; info@protectourcommunities.com; www.protectourcommunities.com

YES on 1183
The Liquor Privatization Initiative

Key Facts about I-1183: The Liquor Privatization Initiative

Initiative 1183, a ballot measure that will appear on the November 2011 statewide ballot, will privatize the distribution and sale of liquor in Washington state, provide hundreds of millions of dollars in new revenues to state and local governments, and increase consumer choice and convenience — while strengthening regulations governing the sale of liquor. It also updates some laws regulating the wholesale distribution of wine.

I-1183 gets the state government out of the business of distributing and selling liquor
Initiative 1183 will end Washington's outdated state liquor store monopoly and allow consumers to buy spirits at licensed retail stores, like consumers do in most other states. This will allow the state to focus on enforcing state liquor laws and regulating liquor sales.

I-1183 allows liquor to be sold in a limited number of qualifying retail stores
Initiative 1183 will allow a limited number of grocery and retail stores to get licenses to sell liquor, if they meet certain strict requirements and are approved by the Liquor Control Board. Eligible stores must have 10,000 square feet or more of fully enclosed retail space or, in areas where larger stores are absent, meet certain other requirements set by the Liquor Control Board. The initiative prevents liquor from being sold at gas stations and small convenience stores.

I-1183 provides vitally needed new revenues for state and local public services
Under the initiative, businesses that get licenses to sell liquor will pay a percentage of their revenues as license fees, generating hundreds of millions of dollars in new revenues for state and local government services, such as health care, education and public safety.

I-1183 strengthens laws governing the sale of liquor and provides additional revenue for public safety programs
Initiative 1183 doubles penalties for retailers who sell spirits to minors and ensures local input into which grocery and retail stores get liquor licenses. 1183 also mandates new training programs and increases compliance requirements for retailers, and dedicates a portion of new revenues to increase funding for local police, fire, and emergency services statewide.

1183 eliminates outdated regulations on wine sales
Initiative 1183 updates our state's wine distribution laws and eliminates outdated regulations that currently restrict price competition and the wholesale distribution of wine in Washington. This will help small Washington wineries and lead to better selections and more competitive wine prices for Washington consumers.

I-1183 increases choice and convenience for Washington consumers
Ending the state's outdated monopoly on liquor sales and distribution will benefit both taxpayers and consumers. Consumers will be able to buy liquor at qualified local supermarkets or retail stores and shop for liquor at stores that offer the selection and prices they prefer.

YES on 1183 will create true competition in liquor and wine distribution and sales, generate vitally needed new revenues for state and local services, and benefit Washington taxpayers and consumers, while strengthening regulations governing the sale of liquor.

I-1183 is supported by a broad coalition

Initiative 1183 is supported by a broad coalition that includes local grocers and other retailers, restaurants, wineries and consumers. Founding members and supporters of The YES on 1183 Coalition include the Northwest Grocery Association, the Washington Restaurant Association, the Washington Retail Association and Family Wineries of Washington State.

NO I-1183

Protect Our Communities

Get the Facts about Initiative 1183

True or False…

I-1183 provides vitally needed new revenues for state and local public services…

FALSE: While it is true the corporate backers of I-1183 have changed their self-described "flawed" proposal from a year ago, there are still hidden consequences and costs to I-1183. Supporters claim that I-1183 would generate millions for the state. However, as the Office of Financial Management report notes, this doesn't take into account the medical and legal costs associated with a rapid expansion of liquor sales.

The Centers for Disease Control and Prevention recently came out against privatizing liquor sales, contending it leads to a 48% increase in consumption. Here in Washington, a 2009 Justice Department study found that underage drinking cost the state more than $500 million annually in youth violence and traffic accidents.

I-1183 will create four times as many outlets selling liquor. While big box retailers make the profits, we all pay the price.

I-1183 will prevent underage drinking and improves public safety…

FALSE: Even the sponsors of this measure called last year's proposal flawed and know that this will lead to increased youth drinking. The fact is I-1183 does not provide any additional funds to the Liquor Control Board for enforcement despite creating more than four times as many outlets that sell liquor. In Washington kids are successful buying alcohol in grocery and convenience stores 1 in 4 times while our state liquor stores have a 95% enforcement rate—one of the best in the country. With state and local governments already cutting our public safety budgets the last thing we need are laws that further increase the burden on our police and firefighters. That is why public safety organizations and officials have joined the campaign to oppose this initiative.

I-1183 will end the state's monopoly and lower the cost of liquor…

FALSE: The big corporate backers of this measure say that it will end a state monopoly and increase funding for government programs. But this measure creates a brand new 27 percent tax on consumers—unfairly increasing the burden on regular Washingtonians. It's time for the big corporations to start paying their fair share instead of forcing us to carry the load for them.

In a recent radio interview backers of this initiative admitted that this plan would likely not lead to lower liquor prices and the OFM projected that there could be as much as a 72% mark-up on each bottle of liquor to meet revenue goals – an almost 50% increase over the current state mark-up per bottle.

Under I-1183, liquor retailers would have to be at least 10,000-square feet to be eligible for spirits licenses…

FALSE: If this measures passes, the number of liquor stores in Washington will skyrocket to at least 4-times their current number—almost immediately. That's irresponsible and dangerous. And there is a loophole in the measure that would allow convenience stores and gas stations to carry liquor. According to I-1183, if there is not a 10,000-square foot grocery store in a neighborhood or "trade area," then any store regardless of size, including mini-marts and gas stations, cannot be denied a liquor license by the Liquor Control Board.

Businesses around Washington are united in getting the state out of the liquor business…

FALSE: This initiative was drafted by corporate stores for corporate profits. This measure gives an unfair monopoly to large box stores at the expense of small businesses and workers. That is why small grocers, businesses, breweries, wineries and workers are united against this measure. I-1183 will immediately eliminate over 1,000 jobs at a time when we can least afford it and put many local entrepreneurs out of business.

This measure eliminates a level playing field and lines the pockets of out-of-state box stores at the expense of our local economy. It's a bad deal that we simply can't afford.

Say No… Again. Reject I-1183!

RESOLUTION R-4896A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 1183 ON THE NOVEMBER 8, 2011, GENERAL ELECTION BALLOT.

WHEREAS, Initiative 1183 (I-1183) will be presented to the voters of the State of Washington at the general election on November 8, 2011; and

WHEREAS, currently the Washington State Liquor Control Board ("the Board") operates the state liquor stores and oversees the private businesses that sell liquor under contract with the state ("contract liquor stores"); and

WHEREAS, I-1183 would close state liquor stores and sell their assets and license private parties to sell and distribute liquor; and

WHEREAS, under I-1183 there is no limit on the number of licenses that can be issued; and

WHEREAS, currently Washington has approximately 165 state liquor stores and 160 contract liquor stores; and

WHEREAS, the Office of Financial Management ("OFM") estimates that 1,428 retailers would begin selling liquor, over the four times the current sales locations, and sales would increase 5% due to increased availability; and

WHEREAS, if passed, I-1183 will result in many more locations to purchase liquor and increased consumption which does not appear to be in the best interest of the health and safety of the public; and

WHEREAS, as provided in RCW 42.17.130, the City Council of the City of Kirkland desires to show its opposition to I-1125;

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

Section 1. The City Council opposes Initiative 1125.

Section 2. The City Council urges Kirkland voters to vote no on Initiative 1183 on November 8, 2011.

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

RESOLUTION R-4896B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S SUPPORT FOR INITIATIVE 1183 ON THE NOVEMBER 8, 2011, GENERAL ELECTION BALLOT.

WHEREAS, Initiative 1183 (I-1183) will be presented to the voters of the State of Washington at the general election on November 8, 2011; and

WHEREAS, I-1183 would fully privatize liquor sales and distribution in Washington; and

WHEREAS, I-1183 preserves local government power to zone and regulate the location of liquor stores; and

WHEREAS, I-1183 allows local governments, the public, churches and schools to object to the issuance of local liquor licenses; and

WHEREAS, I-1183 would require employees selling liquor to complete compliance training every five years; and

WHEREAS, I-1183 would not change the existing taxes on liquor and would require liquor retailers and distributors to pay new license fees to the state; and

WHEREAS, retailers would pay a fee of 17 percent of gross revenues from liquor sales, plus an annual $166 fee; and

WHEREAS, distributors would pay a fee of ten percent of gross revenues from liquor sales, during the first two years of the license, and a fee of five percent of gross liquor sales thereafter, plus an annual $1,320 fee; and

WHEREAS, I-1183 specifies that local governments are to continue to receive, in the aggregate, no less liquor revenue than comparable periods plus an additional $10 million per year for public safety; and

WHEREAS, the Office of Financial Management ("OFM") estimates the new liquor license fees included in I-1183 would increase revenue for local and state governments; and

WHEREAS, OFM estimates that over six years, local governments would receive an additional $186 to $227 million over current projections; and

WHEREAS, OFM further estimates the State General fund would receive an additional $216 to $253 million over the same period; and

WHEREAS, if passed, I-1183 would preserve current liquor revenues for state and local governments; and

WHEREASE, I-1183 addresses the six key principles important to cities concerning liquor privitization as identified by the Association of Washington Cities; and

WHEREAS, as provided in RCW 42.17.130, the City Council of the City of Kirkland desires to show its support of I-1183;

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

Section 1. The City Council supports Initiative 1183.

Section 2. The City Council urges Kirkland voters to vote yes on Initiative 1183 on November 8, 2011.

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

Council Meeting: 10/04/2011
Agenda: Unfinished Business
Item #: 10. a.

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: City Council
Kurt Triplett, City Manager

From: Lorrie McKay, Intergovernmental Relations Manager
Amanda Brown, CMO Graduate Intern
Marilynne Beard, Assistant City Manager

Date: September 23, 2011

Subject: ADOPTION OF CITY COUNCIL GOALS

RECOMMENDATION
It is recommended that the City Council approves the attached resolution adopting the revised ten Council goals.

BACKGROUND

Updated Goal Statements and Performance Measures

At their March 21, 2011 retreat, the Council reviewed and amended its goals related to the City's ten service areas (Attachment A). The goals in the service areas of Human Services and Balanced Transportation were referred to a 3-member subcommittee to examine closer and recommend further updates to these goals to the full Council.

In the course of two subcommittee meetings, the committee identified a more comprehensive balanced transportation goal statement as well as an additional need for outcome measures for both human services and balanced transportation.

The **Human Services** discussion centered on demonstrating the community's human services needs through program turn-away rates. Staff communicated with a sample of City funded programs to see if the programs could provide turn-away rates for Kirkland residents and reasons for changes in turn-away rates. Suitable reporting on Eastside and eventually Kirkland turn-away rates will require coordinating with partner cities' human services reporting, allowing programs time to collect data, and standardizing data collection for turn-away rates (Attachment B).

The **Balanced Transportation** discussion resulted in the addition of safety, mobility, travel time, connectivity, and transportation choices to the goal statement. In accordance with the more comprehensive goal statement, staff developed input, output, and outcome measures that best illustrate Kirkland's work toward achieving the Balanced Transportation goal (Attachment D). The updated measures focus on outcomes resulting from funding and implementing the Active Transportation Plan and Intelligent Transportation Systems (ITS) Strategic Plan. Both plans establish goals and priority projects. The targets in each plan help measure comprehensively Kirkland's transportation system's progress toward the Council goal. Data collection for measures involving travel times and mode split will need to be further developed for future reports (Attachment C).

Focus Group Feedback on Goals

On September 26, the City hosted two focus groups to gather resident input on the City Council's goals, the City budget process and how to increase citizen participation in the budget. The participants were provided a copy of the goals statements and asked to comment on whether they felt they were the right goals and then to identify their top four goal areas. All of the participants related that they thought the goal statements were comprehensive and consistent with what the community would want. They indicated that they did not feel the need to add anything. Both groups were consistent in ranking public safety as the most important goal areas, followed by financial stability, economic development and dependable infrastructure. One group did note that measurement of results was important for them to see. The full results of the focus groups will be summarized for the City Council and copies of the videotaped sessions are available in the City Council study.

Attachments: Council Goals (strike & edit version)
Draft Performance Measures – Human Services
Draft Goal Statement and Performance Measures – Balanced Transportation
Resolution

Attachment A

City Council Goals

I. Neighborhoods

Value Statement: The citizens of Kirkland experience a high quality of life in their neighborhoods.

Goal: Achieve active neighborhood participation and a high degree of satisfaction with neighborhood character, services and infrastructure.

II. Public Safety

Value Statement: Ensure that all those who live, work and play in Kirkland are safe.

Goal: Provide for public safety through a community-based approach that focuses on prevention of problems and a timely response.

III. Human Services

Value Statement: Kirkland is a diverse and inclusive community that respects and welcomes everyone and is concerned for the welfare of all.

Goal: To support a regional coordinated system of human services designed to meet the ~~special~~ basic needs of our community and remove barriers to opportunity.

IV. Balanced Transportation

Value Statement: Kirkland values an integrated multi-modal system of transportation choices.

Goal: To reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, safety, health and transportation choices.

V. Parks, Open Spaces and Recreational Services

Value Statement: Kirkland values an exceptional park, natural areas and recreation system that provides a wide variety of opportunities aimed at promoting the community's health and enjoyment.

Goal: To provide and maintain natural areas and recreational facilities and opportunities that enhance the health and well being of the community.

VI. ~~Diverse~~ Housing

Value Statement: The City's housing stock meets the needs of a diverse community by providing a wide range of types, styles, size and affordability.

Goal: To ensure the construction and preservation of housing stock that meets a diverse range of incomes and needs.

VII. Financial Stability

Value Statement: Citizens of Kirkland enjoy high quality services that meet the community's priorities.

Goal: Provide a sustainable level of core services that are funded from predictable revenue.

VIII. Environment

Value Statement: We are committed to the protection of the natural environment through an integrated natural resource management system.

Goal: To protect and enhance our natural environment for current residents and future generations.

IX. Economic Development

Value Statement: Kirkland has a diverse, business-friendly economy that supports the community's needs.

Goal: To attract, retain and grow a diverse and stable economic base that supports city revenues, needed goods and services and jobs for residents.

X. Dependable Infrastructure

Value Statement: Kirkland has a well-maintained and sustainable infrastructure that meets the functional needs of the community.

Goal: To maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.

Attachment B

HUMAN SERVICES

Goal Statement

To support a coordinated regional system of human services designed to meet the basic needs of our community and remove barriers to opportunity.

	MEASURE	2007	2008	2009	2010	Target
City funds human service agencies	Total human services funding[1]	$2,176,458	$2,176,458	$2,440,583	$2,440,583	N/A
	Human services funding per capita	$47.24	$47.24	$49.37	$49.37	N/A
So that….. The City supports programs that help people meet basic needs	Number of programs funded in each community goal area: 1. Food to Eat and a Roof Overhead	14	14	14	14	N/A
	2. Supportive Relationships within Families, Neighborhoods and Communities	11	11	13	13	N/A
	3. Safe Haven from All Forms of Violence and Abuse	8	8	8	8	N/A
	4. Health Care to Be as Physically and Mentally Fit as Possible	8	8	8	8	N/A
	5. Education and Job Skills to Lead an Independent Life	4	4	4	4	N/A
So that….. Kirkland meets the needs of our community	Percent of Eastside residents requesting assistance that agencies are unable to serve	*	*	*	*	No one turned away
	Funded agencies meet or exceed human services contract outcomes	94%	94%	96%	96%	100%
	Percent of applicant programs receiving funding from the City	85%	85%	81%	81%	100% of eligible programs

[1] Includes all human services funding as listed in the budget
*Data collection methodology for this new measure

Attachment C

BALANCED TRANSPORTATION

Goal Statement

To reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, health, safety and transportation choices.

City funds active transportation options and ITS projects

So that…..

City can implement the adopted Active Transportation Plan and ITS Plan

So that…..

Kirkland has an integrated multi-modal system of transportation that provides mobility, health and safe travel

MEASURE	2007	2008	2009	2010	Target
Percent of CIP Transportation funding devoted to Active Transportation					33%
Funding for Intelligent Transportation System projects					N/A
Percent of proposed ITS projects implemented	*	*	*	4%	100% of ITS Plan
Percent of school walk routes with sidewalk construction completed on at least one side	*	78.6%			100% by 2019
Percent of bicycle network construction improvement projects completed	*	*	*	50%	100% by 2018
Percent of arterials classified as complete streets	*	*	*	58%	100%
Residents surveyed are satisfied with maintenance of active transportation facilities[1]	No survey in 2007	83%	No survey in 2009	84%	90%
Automobile crashes involving bikes	14	12	8	0	0
Automobile crashes involving pedestrians	21	15	13	2	0
Percent of total trips using active transportation mode (transit, pedestrian, bicycle)	**	**	**	**	35% of trips in transit/ other mode by 2022
Major arterial travel times	**	**	**	**	**

[1] Active Transportation Facilities include sidewalks, bike lanes, pedestrian flags, in-pavement lights, etc.
*Data unavailable
**Data collection methodology being established for future reports

RESOLUTION R-4897

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELATING TO ADOPTION OF THE CITY COUNCIL GOALS.

WHEREAS, the Kirkland City Council established ten value statements and goals to articulate key policy and service priorities for Kirkland; and

WHEREAS, Council Goals guide the allocation of resources through the budget and capital improvement program; and

WHEREAS, the Kirkland City Council Goals are reviewed on an annual basis and updated as needed to reflect citizen input as well as changes in the external environment and community demographics; and

WHEREAS, the Kirkland City Council most recently amended the Goals at the March 21, 2011, Retreat and through subsequent subcommittee review;

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

Section 1. The Council Goals as shown in Exhibit A to this resolution are hereby adopted.

Section 2. The adopted Goals shall be used to guide resource allocation and policy and service priorities.

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

Signed in authentication thereof this ____ day of _____, 2011.

_____
MAYOR

Attest:

_____
City Clerk

City Council Goals

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Value Statement: Ensure that all those who live, work and play in Kirkland are safe.

Goal: Provide for public safety through a community-based approach that focuses on prevention of problems and a timely response.

III. Human Services

Value Statement: Kirkland is a diverse and inclusive community that respects and welcomes everyone and is concerned for the welfare of all.

Goal: To support a regional coordinated system of human services designed to meet the basic needs of our community and remove barriers to opportunity.

IV. Balanced Transportation

Value Statement: Kirkland values an integrated multi-modal system of transportation choices.

Goal: To reduce reliance on single occupancy vehicles and improve connectivity and multi-modal mobility in Kirkland in ways that maintain and enhance travel times, safety, health and transportation choices.

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Value Statement: Kirkland has a well-maintained and sustainable infrastructure that meets the functional needs of the community.

Goal: To maintain levels of service commensurate with growing community requirements at optimum life-cycle costs.

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director
Michael Cogle, Interim Deputy Director
Sharon Anderson, Human Services Coordinator

Date: September 22, 2011

Subject: Funding Request for Eastside Winter Shelter

RECOMMENDATION:

That Council authorize the City Manager to allocate $10,000 from the Council's Special Projects reserve fund to support the operating costs of the Eastside Winter Shelter program for the 2011-2012 winter season.

BACKGROUND DISCUSSION:

At the September 20th City Council Meeting Steve Roberts, Executive Director of the Eastside Interfaith Social Concerns Council (EISCC), requested $10,000 from the City to support the operation of the Eastside Winter Shelter for the upcoming 2011-2012 winter season (November 15, 2011 through approximately March 15, 2012). The cities of Issaquah, Redmond, and Bellevue, along with King County, United Way, and the Union Gospel Mission have each committed funding to the program for this winter (see Attachment 1). Kirkland provided $5,000 to support operation of the shelter for the second half of last winter.

The City of Kirkland participates in regional responses to homelessness through efforts such as the Eastside Homelessness Advisory Council and the King County Committee to End Homelessness. The City has also been a partner in what was formerly known as the Eastside Severe Weather Shelter. Initially the shelter was activated only when overnight temperatures were forecast to be 32 degrees or lower. However the irregular schedule made it challenging for homeless individuals to know whether or not the shelter was open on any given night. In response, last winter the Eastside Winter Shelter, operated alternately in Bellevue and Redmond, was made available every night to help ensure the health and safety of Kirkland and other Eastside residents. The average nightly count for the shelter last winter was documented at 39 individuals - more than double the number of nightly clients from the previous year (see Attachment 2). Organizers anticipate that the need on the Eastside will be even more acute this coming winter.

EISCC will continue to serve as the Eastside Winter Shelter contractor through 2012. The shelter will open in mid-November through March 15, 2012 and will operate seven days per week from 8:00 p.m. until 7:00 a.m. with meals provided by volunteers. Resource agencies, such as those related to mental health, medical, etc., will also be made available. A location for the shelter has yet to be selected for this winter but EISCC anticipates the location to be finalized soon.

Mr. Roberts from EISCC is aware that future funding requests to support the Eastside Winter Shelter will be considered by the City only as part of the City's biannual Human Services grant allocation program. The application process for the 2013 – 2014 budget biennium will begin in the spring of 2012.

cc: Human Services Advisory Committee

Attachments

1 – Eastside Winter Shelter 2012 Budget
2 – 2010-2011 Winter Shelter Statistics

Attachment 1

EWS Budget 2012			
	Jan-Mar 15	**Nov 15-Dec 31**	**Total for 2012**
open days	**75**	**46**	121
Income			
Bellevue	$ 18,477	$ 19,000	$ 37,477
Redmond	$ 5,000	$ 5,000	$ 10,000
Kirkland	$ 5,000	$ 5,000	$ 10,000
Issaquah	$ 5,000	$ 5,000	$ 10,000
Union Gospel Mission	$ 7,500	$ 7,500	$ 15,000
King county	$ 15,000	$ 15,000	$ 30,000
United Way	$ 5,000	$ 5,000	$ 10,000
Total Income 2012	**$ 60,977**	**$ 61,500**	**$ 122,477**
Expenses			
Shelter Manager	$ 11,250	$ 6,900	$ 18,150
Shelter staff 1	$ 17,100	$ 10,488	$ 27,588
shelter staff 2	$ 17,100	$ 10,488	$ 27,588
support staff	$ 7,125	$ 4,370	$ 11,495
admin	$ 3,500	$ 2,500	$ 6,000
supplies	$ 2,400	$ 3,600	$ 6,000
Utilities	$ 3,000	$ 2,000	$ 5,000
rental	$ 8,000	$ 6,000	$ 14,000
funding/site selection	$ 2,000	$ 5,000	$ 7,000
Total Expenses 2012	**$ 71,475**	**$ 51,346**	**$ 122,821**

Attachment 2

SWS/EWS:
Overview of the Season (11/20/10 – 2/20/11)

Data	Last Season	This Season	Δ%
Activated nights	18	68	278%
Bed-nights	316	2,670	745%
Average nightly count	18	39	117%
Unduplicated individuals	59	226	283%
Female	5%	19%	280%
Male	95%	81%	-15%
Average age	41.4	36.6	-
Last perm. address, Bellevue	47%	34%	-28%
Last perm. address, other NE cities	12%	27%	125%
Last perm. address, Seattle	2%	17%	750%
Served in the US military	-	16%	-

B

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Jennifer Schroder, Parks & Community Services Director

Description of Request

Request for $10,000 from the Council Special Projects Reserve to support the operating costs of the Eastside Severe Winter Shelter for the 2011-12 season. The Council previously approved $5,000 for the shelter for January-February 2011.

Legality/City Policy Basis

Fiscal Impact

One-time use of $10,000 of the Council Special Projects Reserve. The reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	Council Special Projects Reserve	251,534	40,000	0	10,000	201,534	N/A
	2011-12 Prior Authorized Use of this reserve: $5,000 for the Eastside Severe Weather Shelter, $10,000 for Green Kirkland, and $25,000 for Cultural Council funding. A previously approved request of $3,000 for the King County Development Block Grant (CDBG) consortium program is not needed due to a change to the City's participation.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Senior Financial Analyst	Date	September 22, 2011

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplet, City Manager

From: Jennifer Schroder, Director

Date: September 23, 2011

Subject: NAMING OF THE OFF-LEASH FACILITY AT HERONFIELD WETLANDS

RECOMMENDATION:

That the City Council names the new off-leash facility at Heronfield Wetlands "Jasper's Dog Park."

BACKGROUND DISCUSSION:

The Kirkland Dog Off-leash Group (KDOG) requests that the new off-leash area be named "Jasper's Dog Park." KDOG is working toward a goal of opening Kirkland's first off-leash park this fall. Although this will provide a long awaited resource for dog owners, it should not be assumed that it is the one and only off-leash park that Kirkland will have. Therefore, naming the off-leash area would be helpful in identifying this facility.

Jasper is the name of KDOG President Jean Guth's dog that passed away last year. The name is proposed in appreciation of Ms Guth's leadership and tireless commitment to build the off-leash park. KDOG has accepted the responsibility to raise the funds necessary (approximately $50,000) to build the off-leash park.

The policy and procedure for naming public parks and facilities is based upon the relationship to one or more of the following criteria:

1. Neighborhood or geographical identification (e.g., Houghton, Bridle Trails, Rose Hill, etc.);

2. A natural or geological feature (e.g., Forbes Creek);

3. Historical or cultural significance;

4. An individual (living or deceased) who has given outstanding civic service to the Kirkland park system, or has donated substantial funds or land to the Kirkland park system, or has been otherwise instrumental in the acquisition or development of critical park acreage (e.g., Marsh Park). Parks or facilities shall not ordinarily be named for a living person, unless that person has made a significant and outstanding contribution of land, money, or civic service. A waiting

period of at least one year should expire before naming a park or facility under the policy of this subparagraph;

5. A civic group or corporation whose mission statement is compatible with City goals and objectives and that has made a significant contribution of land, money or civic service to the Kirkland park system (e.g., Lee Johnson Field);

6. The wishes or preference of residents of the neighborhood surrounding the public park or facility should, in all cases, be considered.

At its September 14, 2011 Regular Meeting, the Kirkland Park Board reviewed this request and considered the significant donation KDOG is making to build and maintain Kirkland's first off-leash area. The Board found that the request meets condition number five (above) of the Naming of Public Parks and Facilities Resolution (R-4799). The Park Board passed a motion to recommend to the City Council that the new off-leash area at Heronfield Wetlands be named "Jasper's Dog Park."

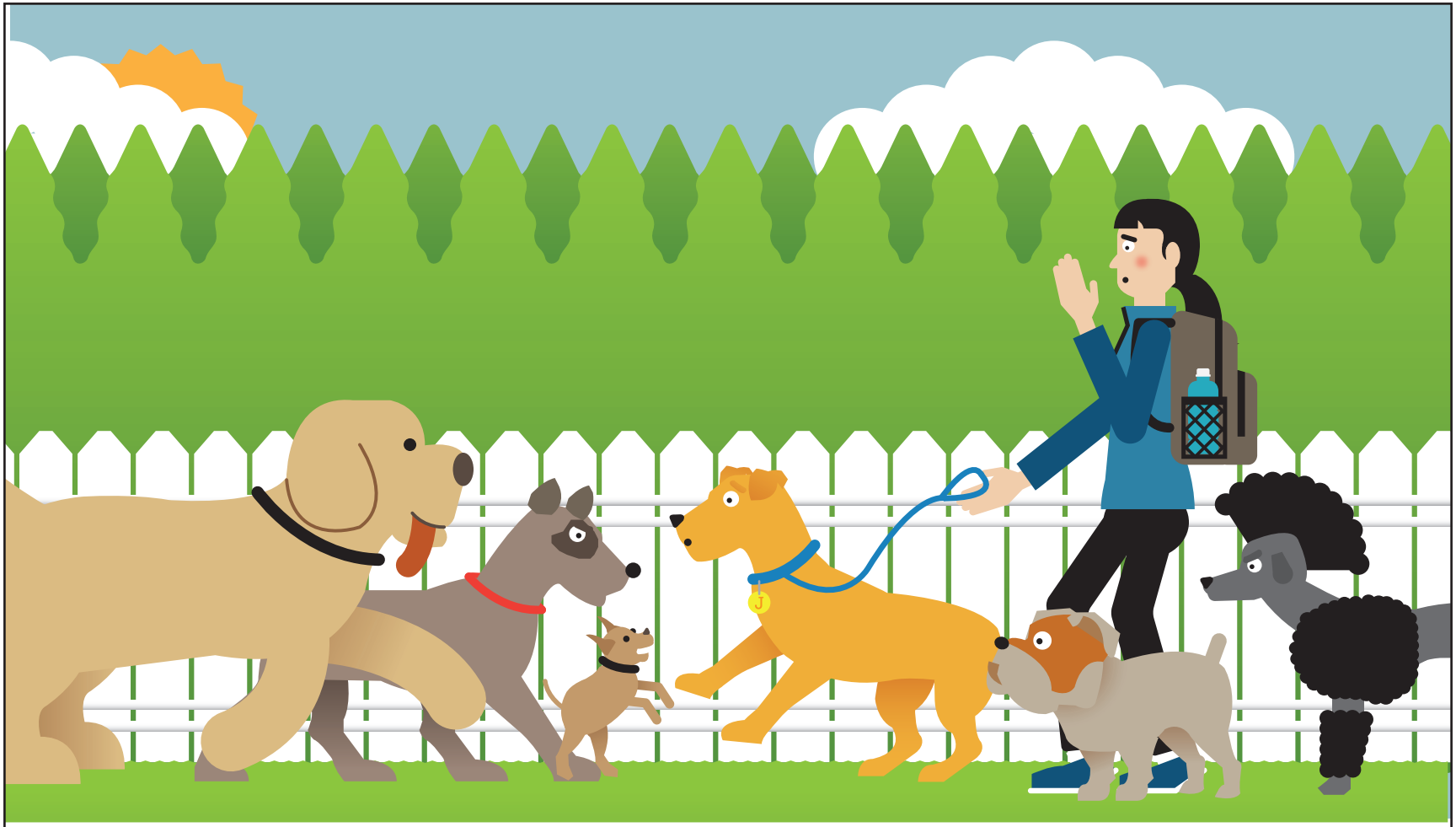
Attachments:

Dog Park Logo
Naming of Public Parks and Facilities Ordinance R-4799

JASPER'S DOG PARK LOGO

LEASHED DOGS ARE EASILY OVERWHELMED

JASPER'S TIP SIGN #1

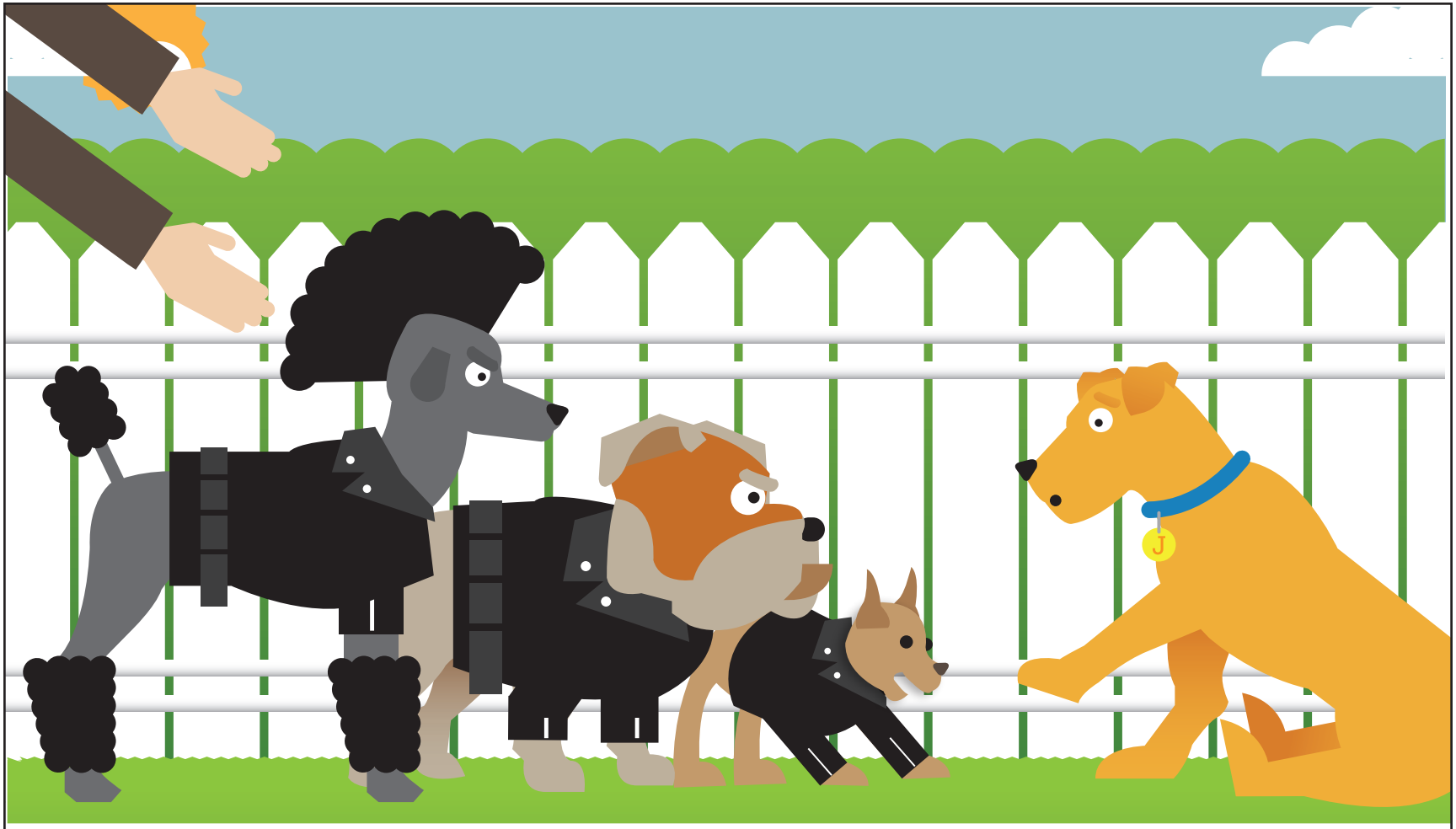


JASPER'S TIP

LEASHED DOGS ARE EASILY OVERWHELMED

BREAK UP PACKS OF DOGS - DON'T ALLOW BULLYING

JASPER'S TIP SIGN #2



JASPER'S TIP

BREAK UP PACKS OF DOGS
- DON'T ALLOW BULLYING

AMBUSH! DON'T CONGREGATE AT PARK ENTRANCES

JASPER'S TIP SIGN #3

JASPER'S TIP

AMBUSH! DON'T CONGREGATE

AT THE PARK ENTRANCE

DON'T USE TREATS AND TOYS AROUND DOGS YOU DON'T KNOW
JASPER'S TIP SIGN #4

KEEP MOVING TO PREVENT SCUFFLES

JASPER'S TIP SIGN #5

PHONE FREE ZONE - PLAY WITH YOUR DOG

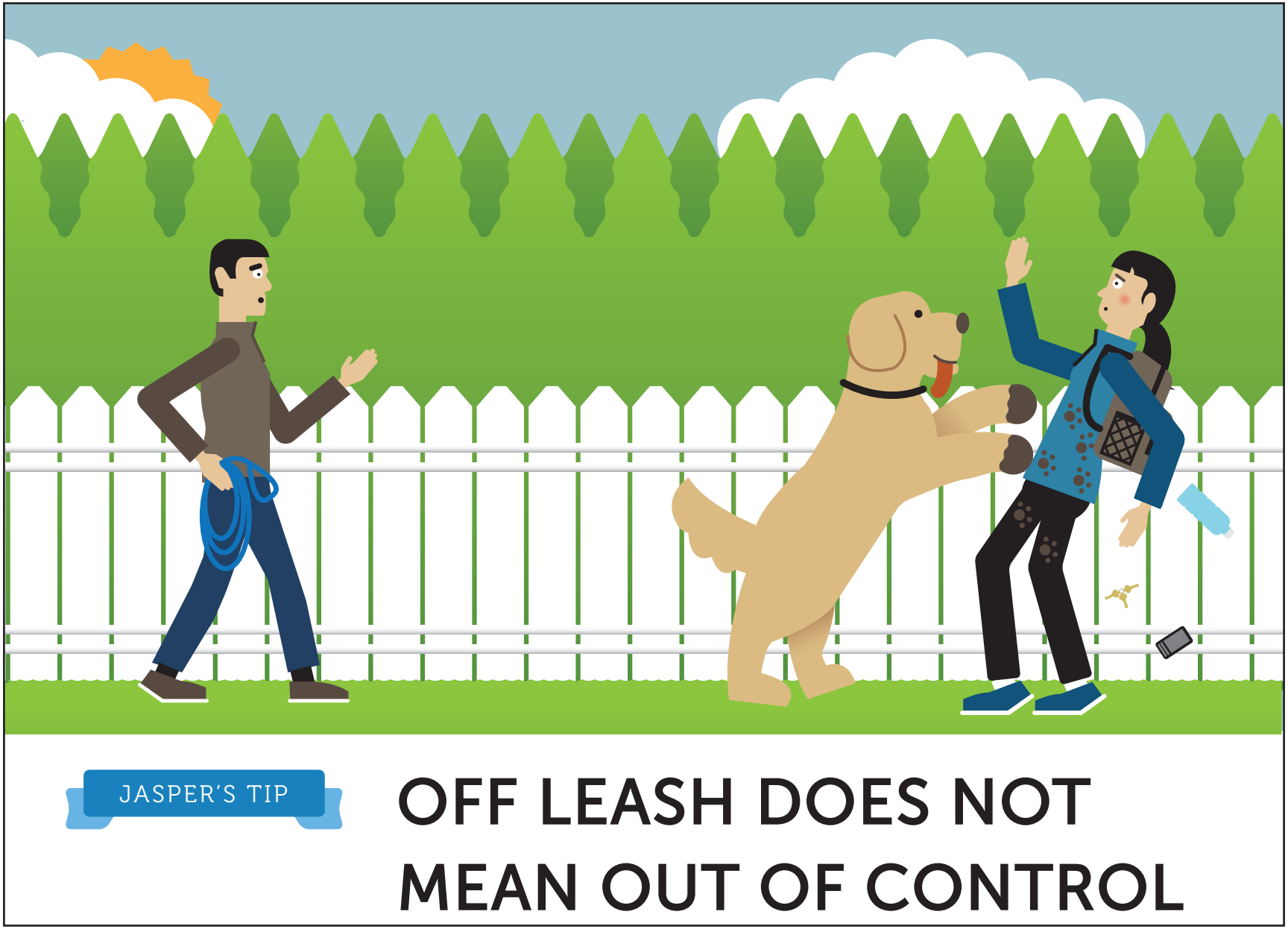
JASPER'S TIP SIGN #6

THIS ISN'T A DAY SPA - NO GROOMING IN THE PARK

JASPER'S TIP SIGN #7

OFF LEASH DOES NOT MEAN OUT OF CONTROL

JASPER'S TIP SIGN #8



BE AN ANGEL - ADOPT AN ORPHANED POOP

JASPER'S TIP SIGN #9

JASPER'S TIP

BE AN ANGEL - ADOPT AN ORPHANED POOP

BRING YOUR OWN WATER

JASPER'S TIP SIGN #10

JASPER'S TIP

BRING YOUR OWN WATER

RESOLUTION R-4799

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ESTABLISHING POLICIES AND PROCEDURES FOR THE NAMING OF PUBLIC PARKS AND FACILITIES.

WHEREAS, the City Council adopted Resolution R-3215, establishing policies and procedures relating to the naming of public park property and facilities on August 19, 1985; and

WHEREAS, the Park and Recreation Board recommends updating the park naming policy to: (1) include procedures for naming a park or facility after a civic group or organization; (2) provide that a numeric designation will be used for new parks and facilities until a permanent name is selected: and (3) clarify that the naming of a park or facility should be considered permanent under ordinary circumstances; and

WHEREAS, the City Council wishes to set forth the policies and procedures for naming public parks and facilities by resolution;

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

Section 1. It is the general policy of the City of Kirkland to choose a name for a public park or facility based upon the relationship of the land or facility to one of several criteria:

1. Neighborhood or geographical identification (e.g. Houghton, Bridle Trails, Rose Hill, etc.);

2. A natural or geological feature (e.g. Forbes Creek);

3. Historical or cultural significance;

4. An individual (living or deceased) who has given outstanding civic service to the Kirkland park system, or has donated substantial funds or land to the Kirkland park system, or has been otherwise instrumental in the acquisition or development of critical park acreage (e.g. Marsh Park). Parks or facilities shall not ordinarily be named for a living person, unless that person has made a significant and outstanding contribution of land, money, or civic service. A waiting period of at least one year should expire before naming a park or facility under the policy of this subparagraph;

5. A civic group or corporation whose mission statement is compatible with City goals and objectives and that has made a significant contribution of land, money or civic service to the Kirkland park system;

6. The wishes or preference of residents of the neighborhood surrounding the public park or facility should in all cases be considered.

Section 2. In establishing or designating the name of a public park or facility, the final authority on name selection is the responsibility of the City Council. In making such selection the City Council will normally consider suggestions for names received from organizations, individuals or neighborhoods, and may request the Parks Department or the Park Board to solicit such suggestions. The City Council will not make its final selection until after it has received the recommendation of the Kirkland Park Board.

Section 3. Until a park or facility name is selected for a new park or facility, a numeric designation shall be used to identify the park or facility.

Section 4. Under ordinary circumstances, the naming of a park or facility should be considered permanent. Any proposal to change the name of a park or facility shall be subject to the procedures set forth in this Resolution.

Section 5. Upon selection of a park or facility name by the City Council, the Parks Department shall identify the park or facility with appropriate signage specifying the established name.

Passed by majority vote of the Kirkland City Council in open meeting this 19th day of January, 2010.

Signed in authentication thereof this 19th day of January, 2010.

MAYOR

Attest:

Kathi Anderson

City Clerk

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kari Page, Neighborhood Outreach Coordinator

Date: September 26, 2011

Subject: Upcoming City Council Meetings in the Finn Hill neighborhood

RECOMMENDATION:

City Council finalizes the agenda for the City Council Meeting in the Finn Hill neighborhood.

BACKGROUND:

The Council is scheduled to meet with Finn Hill neighborhood residents on Wednesday, October 19, 2011 6:45 p.m.–8:45 p.m. at Finn Hill Jr. High, 8040 Northeast 132nd Street.

Unless otherwise instructed by Council, staff will continue to structure the format of the meeting similar to last spring's City Council Meeting with the Central Houghton Neighborhood.

The agenda for the meetings is as follows:

6:45-7:00 p.m.	Informal Casual Conversations
7:00-7:05 p.m.	Welcome and Introduction—Mayor Joan McBride
7:05-7:10 p.m.	Comments from the Neighborhood Organizing Committee, Jon Pascal and Scott Morris
7:10-7:30 p.m.	Introductions from City Council Members
7:30-8:45 p.m.	General Discussion and Questions from Audience
8:45 p.m.	Social Time

The Finn Hill and Denny Creek Neighborhood Alliance leaders provided the following list of topics they would like to discuss at the meeting. These questions will be added to the list of questions submitted by residents and answers will be distributed at the meeting and posted online.

Finance:

1. What are the City budget priorities?
2. What are Kirkland's business license fees?
3. Why is the utility tax so high?

Fire:

4. Provide an update on the Finn Hill Fire Station

Parks:

5. Provide an update on the future of Kirkland's parks
6. Report out on what the parks exploratory committee is doing

Planning:

7. Explain the upcoming zoning study of Holmes Point Commercial Area
8. How are code enforcement issues (RVs, boats, etc.) handled?
9. What is the schedule for the Neighborhood Plan updates?
10. How do the City's development regulations protect the environment?
11. Status report for Lacrosse field in Big Finn Hill Park

Police:

12. Discuss neighborhood safety: police presence and neighborhood watch groups.
13. Is the Police Department addressing speeding, running of stop signs, etc.?

Public Works:

14. What and how often does the City do general street maintenance/upkeep?
15. Why are garbage collection rates so high in Kirkland?
16. What will be the impact on Juanita Drive traffic in light of 520 tolling?
17. What will be done to improve safety on Juanita Drive (cars/bikes/pedestrians)? Recognition of bicyclist fatality on Juanita Drive this summer and another on Holmes Point Drive about 5 (?) years ago.
18. How can Kirkland help support some of Denny Creek Neighborhood Alliance priority projects? To view current project list go to: http://www.dennycreek.org/2011/09/dcna-board-approves-project-list-for-2011-2012/
19. How can Kirkland help support the implementation of the recommendations from the 2007 O.O. Denny Creek Watershed Survey? The recommendations are listed on the last page of the report found at: http://www.dennycreek.org/wp-content/uploads/2011/03/DCNA_WatershedReport2007.pdf

Attachment A outlines the 2011/2012 timeline for receiving the questions and answers in advance of the meetings and a map of the areas. If you have any suggestions or changes to this schedule, please contact Kari Page at (425) 587-3011.

ATTACHMENT A

2011

January						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

March						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

August						
Su	Mo	Tu	We	Th	Fr	Sa
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September						
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11	12	13	14	15	16	17
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25	26	27	28	29	30	

October						
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November						
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27	28	29	30			

December						
Su	Mo	Tu	We	Th	Fr	Sa
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

2012

January						
Su	Mo	Tu	We	Th	Fr	Sa
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
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February						
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19	20	21	22	23	24	25
26	27	28	29			

March						
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18	19	20	21	22	23	24
25	26	27	28	29	30	31

April						
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22	23	24	25	26	27	28
29	30					

May						
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27	28	29	30	31		

June						
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24	25	26	27	28	29	30

July						
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

August						
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

September						
Su	Mo	Tu	We	Th	Fr	Sa
						1
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October						
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28	29	30	31			

November						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

December						
Su	Mo	Tu	We	Th	Fr	Sa
						1
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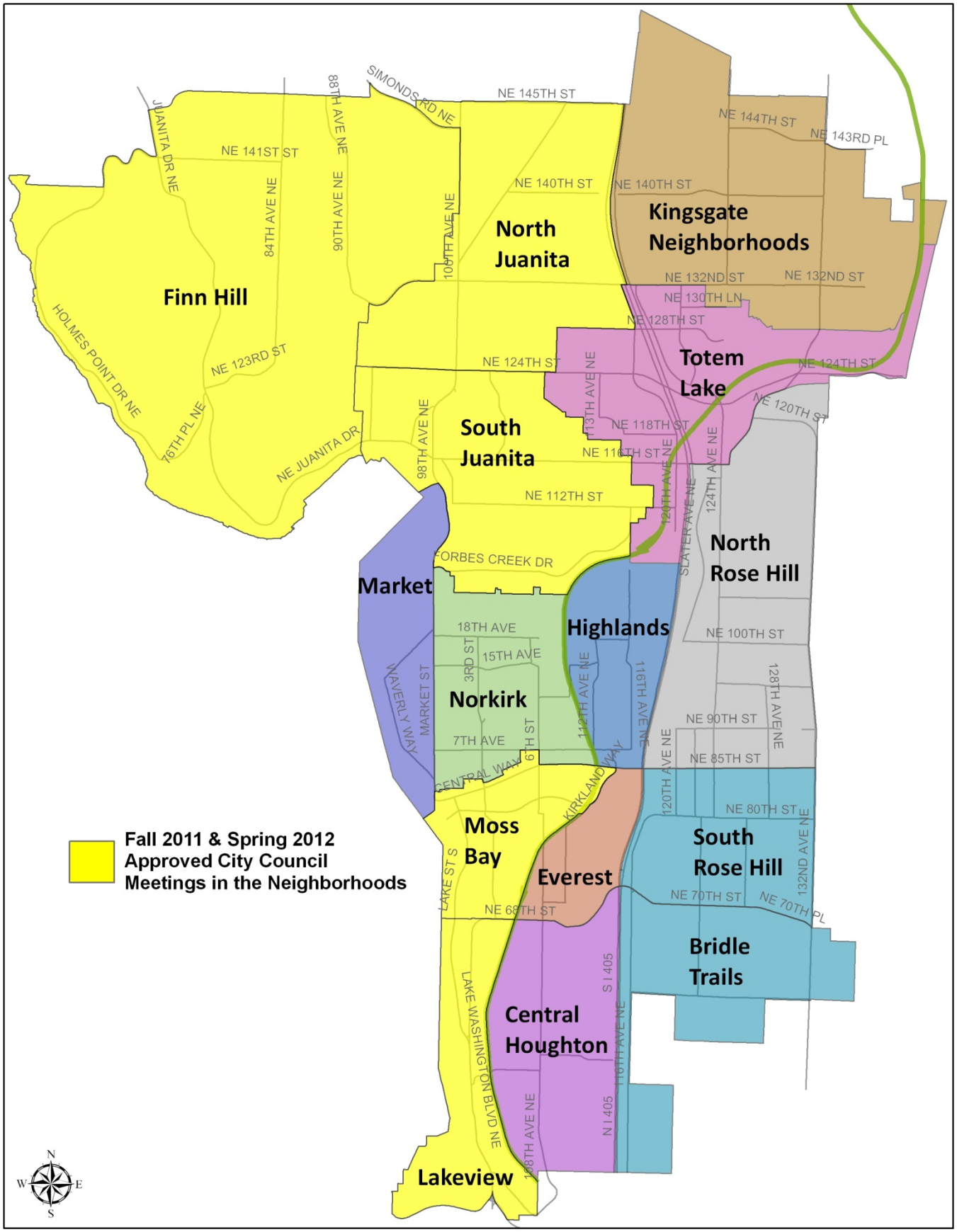
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

	Approved Fall 2011 and Spring 2012 City Council Meetings in the Neighborhoods
	Finn Hill Neighborhood: Wednesday, October 19, 2011
	Juanita Neighborhoods: Thursday, November 10, 2011
	Lakeview Neighborhood: Thursday, March 29, 2012
	Moss Bay Neighborhood: Monday, May 21, 2012

	Milestone
	Residents receive mailing and submit questions
	Regular Council meeting to finalize agenda
	Directors answer questions from residents
	City Council receives questions and answers
	City Council meeting with the Neighborhood


Finn Hill
North Juanita
Kingsgate Neighborhoods
Totem Lake
South Juanita
North Rose Hill
Market
Highlands
Norkirk
Moss Bay
Everest
South Rose Hill
Bridle Trails
Central Houghton
Lakeview
Fall 2011 & Spring 2012 Approved City Council Meetings in the Neighborhoods
SIMONDS RD NE
NE 145TH ST
NE 144TH ST
NE 143RD PL
NE 141ST ST
NE 140TH ST
NE 132ND ST
NE 130TH LN
NE 128TH ST
NE 124TH ST
NE 123RD ST
NE 120TH ST
NE 118TH ST
NE 116TH ST
NE 112TH ST
FORBES CREEK DR
NE 100TH ST
NE 90TH ST
NE 85TH ST
NE 80TH ST
NE 70TH ST
NE 70TH PL
NE 68TH ST
18TH AVE
15TH AVE
7TH AVE
CENTRAL WAY
KIRKLAND WAY
JUANITA DR NE
HOLMES POINT DR NE
NE JUANITA DR
76TH PL NE
84TH AVE NE
88TH AVE NE
90TH AVE NE
100TH AVE NE
98TH AVE NE
113TH AVE NE
120TH AVE NE
124TH AVE NE
128TH AVE NE
132ND AVE NE
116TH AVE NE
112TH AVE NE
SLATER AVE NE
WAVERLY WAY
MARKET ST
3RD ST
6TH ST
LAKE ST S
LAKE WASHINGTON BLVD NE
S I 405
N I 405
N
S
E
W