

RESOLUTION R -3566

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY OF KIRKLAND A CONTRACT FOR SOLID WASTE COLLECTION AND DISPOSAL BETWEEN THE CITY OF KIRKLAND AND SNO-KING GARBAGE COMPANY, INC.

Be it resolved by the City Council of the City of Kirkland as follows:

Whereas, the City of Kirkland operates under the authority of Chapter 16.12 Kirkland Municipal Code its own solid waste collection utility, and

Whereas, it has been determined by the City of Kirkland that the collection and disposal of solid waste within the City of Kirkland can best be done by contract between the City and a private contractor, and

Whereas, the City Council has heretofore by resolution pursuant to Section 16.12.010 of the Kirkland Municipal Code directed the City Manager to negotiate for the award of a new contract for solid waste collection, and

Whereas, the City Manager has recommended to the City Council the contract, a copy of which is attached to the original of this resolution, between the City and Sno-King Garbage Company, Inc., the City's present contract solid waste collector, and

Whereas, it appears to the City Council that it would be in the best interest of the City and the residents thereof to enter into said contract for a five year period, 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 sign on behalf of the City of Kirkland that certain contract between the City of Kirkland and Sno-King Garbage Company, Inc. for the complete collection of solid waste within the City of Kirkland and in accordance with the terms thereof for the period commencing January 1, 1990 and ending December 31, 1994, a copy of which contract is attached to the original of this Resolution and by this reference incorporated herein as though fully set forth.

CONTRACT

THIS AGREEMENT made and executed this _____ day of _____, 1989, by and between the City of Kirkland, a noncharter code city, hereinafter called "City", and Sno-King Disposal Company, Inc., hereinafter called "Contractor";

I.

RECITALS

1.1 WHEREAS, the City of Kirkland operates under the authority of Chapter 16.12, Kirkland Municipal Code, its own garbage or sanitation utility, and Sno-King Garbage Company, Inc., presently performs the collection and disposal of garbage and refuse within the City of Kirkland under contract whose term will expire December 31, 1989, and

1.2 WHEREAS, Sno-King Garbage Company, Inc., is headquartered at Redmond, Washington; and

1.3 WHEREAS, it has been determined by the City that it will be in the best interests of the City and the residents thereof to negotiate a new contract with Contractor for a period commencing January 1, 1990 and ending December 31, 1994; and

1.4 WHEREAS, City and Contractor have negotiated mutually agreeable terms for such contract;

Now, therefore, in consideration of the mutual promises, covenants and agreements contained herein, IT IS AGREED as follows:

II.

AGREEMENT

2.1 Term. This contract shall commence on January 1, 1990, and end on December 31, 1994. The City shall have an option to renew the contract term for an additional 3 years, provided said option is exercised with notice thereof given to the Contractor by not later than October 30, 1994. During the said term, Contractor agrees to collect and remove all solid waste, as

defined by RCW 70.95.030, from all buildings, structures, places of business, plants, dwellings, stores, office buildings, fire houses, schools, hotels, municipal buildings, theaters, garages, public markets, restaurants, and other places of accumulation, all in accordance with the contract as contained herein, and Contractor shall make a complete and thorough collection and disposal thereof.

"Recyclable materials" as defined by RCW 70.95.030(14) are included within the scope of this Contract, provided that "source separated" "recyclable materials" are included as provided in Section 2.31 of this Contract.

"Special Wastes" as defined in Section 2.40 of this Contract are subject to the provisions of this Contract to the extent provided in said Section 2.40.

"Hazardous waste" as defined in Section 2, Kirkland Ordinance 2708 or by State or Federal Law is not included within the scope of this contract. Contractor shall neither collect, transfer nor dispose of hazardous waste at any time while performing under this contract. Nothing herein is intended to prevent Sno-King Garbage Company, Inc., from collecting, transporting and/or disposing of any hazardous waste in accordance with applicable federal and state requirements and regulations, so long as such actions are performed separate and apart from any actions taken in the performance of this contract.

2.2 Consideration to be Paid. For the full and faithful performance of the services to be performed by the Contractor pursuant to this agreement, Contractor shall be compensated in accordance with the schedule of rates and charges attached hereto as Appendix A or as amended during the term of this contract as provided for in paragraph 2.3. Payment shall be made to Contractor by the City monthly for services rendered in the prior month, and all charges and penalties assessed for said prior month, pursuant to the provisions of the contract, shall be deducted from such monthly payment. The customer count shall be

based upon the record of active customers maintained by the City. The account may be adjusted to reflect changes in active customers every three months.

2.3 Modifications in Rates. The rates and charges set forth in Paragraph 2.2 shall be amended or modified only as follows and then only based on the following factors exclusively:

- A. Present Contractor rate(s) being modified.
- B. Verified disposal costs paid by Contractor for previous twelve months.
- C. Annual total revenues paid to Contractor (previous twelve months) associated with rates being modified.
- D. Old blended dump fee rate charged by King County for solid waste and by the yard waste processing facility for yard waste.
- E. New blended dump fee rate charged by King County and yard waste processing facility for yard waste.
- F. Revised dump fee portion of rate(s).
- G. A multiple equivalent to 65 percent of the most reported increase, in the Consumer Price Index for Urban Wage Earners and Clerical Workers, all items as published by the U.S. Dept. of Labor, Statistics for the Seattle-Everett Metropolitan area. This multiple shall not exceed 5 percent.
- H. Revised non-dump fee portion of rate(s).

Dump fee increases: Contractor may request a modification in the dump fee portion of the rates whenever the dump fees charged by King County or yard waste processing facility for yard waste are increased or decreased by giving the City 60 days prior written notice of request to modify rate. Modifications will be arrived at by the following formula:

$$(A \times B/C) \times (E/D) = F$$

$$(F) - (A \times B/C) = \text{Increase applied to A}$$

CPI adjustments: Contractor may request a modification in the non-dump fee portion of the collection rates on January 1,

1992 and every January 1st thereafter by giving the City 60 days prior written notice of request to modify rates. Modifications will be arrived at by the following formula:

$$(A - F) \times (1 + G) = H$$

$$(H) - (A - F) = \text{Increase applied to A}$$

Additional fee or taxes: Contractor may also request a modification to rates whenever the City, the State, the County or any other regulatory agency should impose on the Contractor any additional fees or taxes on the services performed in conjunction with the provisions of this contract.

Modification frequencies: The Contractor may request modifications to rates based on the criteria stated above. However, the City will grant such modifications only once every twelve months during the life of the contract. Those rate modification requests by the Contractor which are not granted by the City will be calculated into the next granted rate modification so that the amount of deficit will be recaptured by the Contractor during the twelve months succeeding the next granted rate modification by the City, at the end of said 12 months rates shall be adjusted to exclude the specific amounts which funded the deficit reduction.

City may request a modification in rates at any time upon giving the Contractor 60 days written notice. City must couple such a request with a review and renegotiation of provisions of the contract relating to waste reduction and/or recycling programs or changes in contract provisions required to be modified as a result of changes in state or federal laws or regulations relating to solid or hazardous waste or as a result of changes in the King County Solid Waste Interlocal Agreement.

"Blended dump fee rate" shall be calculated as follows:

a = The total annual tonnage of solid waste collected under this contract and delivered by Contractor for disposal to Cedar Hills.

b = The current King County per ton tipping fee established for Cedar Hills.

c = The total annual tonnage of yard waste collected under this contract and delivered to yard waste processing facility for yard waste.

d = The current per ton yard waste processing fee charged by the yard waste processing facility for delivery of yard waste.

e = The new Cedar Hills tipping fee (either increase or decrease) charged by King County.

f = The new fee (either increase or decrease) charged by yard waste processing facility for yard waste.

"Old blended dump fee rate" to be calculated by the following formula:

$(a \times b) + (c \times d)$ divided by $(a + c)$ = Old blended dump fee rate

"New blended dump rate" is to be determined by the following formula:

$(a \times e) + (c \times f)$ divided by $(a + c)$ = New blended dump fee rate

2.4 Mandatory Collection. Solid waste collection, including collection of construction waste and other temporary solid waste collection, by contractor shall be both exclusive and mandatory in all areas of the City served by Contractor (except hazardous waste and those special wastes excluded from this contract by Section 2.40), except as to those persons obtaining a private permit as referred to in Section 2.22 of this agreement. Contractor shall immediately notify the Kirkland Director of Fire and Emergency Services should Contractor become aware of the presence of any hazardous wastes.

2.5 Collection Schedules. Contractor shall use its best efforts at all times to keep all persons from whom it is collecting garbage and refuse advised of the schedules for

collection, both day and time of pick up, and shall further exert its best efforts to maintain actual collection in accordance with such schedules.

2.6 Area to be Served. The area to be served shall be the entire area within the city limits of the City of Kirkland as it now exists, or is expanded by annexation or consolidation pursuant to the provisions of RCW 35.13.280, provided Contractor shall be entitled to commence service to any annexed area, including areas annexed as of January 1, 1988 only as provided in paragraph 2.21.

2.7 City Supervision. The work embraced in accordance with the provisions of this contract shall be under supervision of the City Manager or his authorized representative.

2.8 Collection Schedules. No collection shall be made except within the following time schedules:

For commercial and industrial: Between the hours of 5 a.m. and 5 p.m., Monday through Friday. (Where special circumstances or complaints received by the City indicate the necessity or desirability of an adjustment in the hours between which pick ups may be made the City may require such an adjustment to be made upon written notice to the Contractor.)

For residential dwellings: Between the hours of 6 a.m. and 5 p.m., Monday through Friday.

For mixed commercial and residential usage at same location: Between the hours of 6 a.m. and 5 p.m., Monday through Friday.

2.9 Meaning of Terms. The meaning of terms and words as contained herein shall, unless otherwise defined, be governed by the provisions of Title 16, Refuse and Garbage, Kirkland Municipal Code, and/or any amendments or revisions thereto where applicable, and, otherwise, by the common and customary understanding of the industry.

2.10 Requirements re Employees. The Contractor shall require all employees to be courteous at all times, and not to use loud

or profane language, and to do their work as quietly as possible. Employees, in collecting garbage, refuse and certain other waste, shall follow the regular walks for pedestrians while on private property, returning to the street or alley after replacing the empty cans. They shall also replace all garbage cans and covers and close all gates opened by them. All employees shall wear clean clothing. Employees shall not trespass nor cross property to neighbor's premises, nor meddle with property which does not concern them.

2.11 Loading. Extra care shall be taken in the loading, compacting and transportation of garbage, refuse and other waste so that none of the materials to be collected is left either on private property or on the streets and alleys. Any garbage, refuse or other waste left on the private property or on streets or alleys by the Contractor shall be cleaned up upon notice from the City Manager.

The Contractor shall be responsible for the cleaning of all debris, spilled or tracked on any street, alley, or public place by any of its equipment, and if the Contractor fails to clean the same within two hours after notice is served by the City Manager, the City Manager may cause such streets to be cleaned and charge the costs to Contractor.

2.12 Emergency Collections. Adequate provisions shall be made by the Contractor to provide special collections when garbage, refuse and other waste has not been collected during a regularly scheduled trip. Special pick ups for missed collection shall be made by the Contractor when ordered by the City Manager to cause the work to be done. The sum of \$25 for each such pick up shall be billed to the Contractor. For purposes of this paragraph, "missed collection" shall not include collections not made for reasons beyond the control of the Contractor, such as "acts of God," access blocked by street construction or temporary road surface condition due to usual and inclement weather, etc.

It shall not be considered a missed collection if the

customer has not, on the collection day, placed their garbage or refuse for collection by 6:00 a.m. for residential customers and 5:00 a.m. for commercial customers. A make-up collection shall not be required in this case. Additional service fees shall be assessed to the customer in the event the Contractor is requested to make a return trip to pick up such a late setout.

When the Contractor determines that an inclement weather condition exists which may prevent the Contractor from providing safe service on a regularly scheduled basis, users have the option of taking the garbage and refuse to the King County Transfer Station during a period of such non-collection. In such cases, an adjustment will be made to the customer's collection fee upon submittal of a dump fee receipt - maximum adjustment equal to the normal collection fee for the number of collections not made by the Contractor - to the City of Kirkland Utility Billing Office. The adjustment shall be deducted from the payment to the Contractor.

As an alternative, customers may retain their garbage or refuse until the Contractor is able to reinstate service and Contractor shall pick up all garbage or refuse equal only to the normal missed pickup, at no additional charge to the user. Saturday collections will be permitted.

In the event of an inclement weather condition which prevents the Contractor from providing the regularly scheduled service, the Contractor shall notify the City as soon as possible of the delay of the collection schedule and will notify radio stations of the delay including, but not limited to, KIRO 710 AM, KING 1090 AM, and KOMO 1000 AM. The Contractor shall also notify the City when collection can resume. As standard practice, if the delay is two (2) days or less, the Contractor shall make up the missed days, using a delayed collection schedule. If the delay is three (3) days or more, the Contractor may omit that week's collection and resume collections the following week in the regular schedule. Any exceptions to this practice shall be approved by the City.

Garbage or refuse left purposely by the Contractor must be tagged to indicate why it was not picked up and shall not be considered a missed collection. Reasons for leaving and tagging material shall include, but not be limited to, weight of garbage and refuse in excess of the limit, hazardous materials or excluded special wastes, and materials not properly contained. Other reasons may be established with mutual agreement of City and Contractor.

2.13 Collection Equipment. In collecting garbage, refuse and other waste under this contract, the Contractor shall use all metal water-tight, completely enclosed truck and/or container units that are designed and manufactured for the collection of garbage and refuse and are capable of servicing residential, commercial and industrial accounts. The number and type of collection vehicles furnished shall be sufficient for the collection of all garbage, refuse and other waste within the area to be served, and Contractor shall keep and maintain all equipment in good working order so as to minimize interruption or delay in pick up schedules resulting from equipment breakdown. If there is any doubt by the Contractor whether the equipment is satisfactory, he shall secure prior written approval from the City Manager.

2.14 Method of Disposal. The Contractor shall deliver, at his cost, all garbage, refuse or other solid waste to a disposal site operated by King County, or successors, or such other site or sites as shall be approved by and meet with the solid waste disposal site requirements of the existing Interlocal Governmental Solid Waste Agreement between the City of Kirkland and King County, and if located within the State of Washington, approval of the Department of Ecology; provided that the Contractor shall not use any dump or solid waste disposal site which the City would be prohibited from using were the City to collect and dispose of garbage and refuse with its own employees. Contractor shall at all times keep the City advised of the disposal site or disposal sites being used by Contractor.

As between the City and the Contractor, Contractor shall be responsible to see that all solid waste collected by Contractor and delivered for disposal as herein required shall be in compliance with the Resource Conservation and Recovery Act as amended (42 U.S.C. 6901, et seq.), RCW Chapter 70.95, King County Board of Health Rules and Regulation Number 8, the requirements of Chapter 16 of the Kirkland Municipal Code and all other applicable federal, state and local environmental health laws, rules or regulations.

2.15 Ownership of Equipment. All vehicles, facilities, equipment and property used in the performance of this contract shall be owned by the Contractor; provided, however, that leasing or rental agreements may be allowed when approved by the City Manager prior to their execution. All such leasing or rental agreements shall provide that in the event of default of this contract or of such leasing or rental agreement, the City may, at its option, have the right to take possession of and operate such vehicles and equipment covered by such leasing or rental agreements for the unexpired term of this contract. Any conditional sales contract, mortgage or other contractual arrangement for financing the purchase of equipment to be utilized under the terms of this contract shall provide that, in the event of default of any term or provision in the contract or conditional sales agreement, mortgage or other contractual arrangement, that the right to possession and use of such vehicle equipment and facilities may be taken by the City for the unexpired term of this contract.

2.16 Painting of Vehicles and Equipment. Collection vehicles shall be painted and numbered and shall have the Contractor's name and number of the vehicle painted in letters of a contrasting color at least four (4") inches high on each side of each vehicle and the number painted on the rear. No advertising shall be permitted other than the name of the contractor. All vehicles shall be kept in a clean and sanitary condition, and all

collection vehicles shall be steam cleaned or "pressure washed" inside and out at least once each week. Repainting of all vehicles shall be done not less than every two and one-half years. All detachable containers furnished under the Contractor shall be either painted or galvanized, and shall display the Contractor's name and number on the container. In addition, all such containers shall be marked with any necessary or appropriate safety warnings as may be required or recommended by an appropriate regulatory agency. All containers shall display the Contractor's name and telephone number and shall be steam cleaned or pressure washed whenever necessary in the judgment of City Manager, and always before being placed out for a new customer.

2.17 Parking of Vehicles. The Contractor shall not use property in or adjacent to that zoned as residential, nor adjacent to the various disposal sites for the parking, standing, washing, cleaning or storing of its vehicles or equipment without the approval of the City Manager. Areas used by the Contractor for the storing, parking or repair of vehicles shall be kept in a clean and orderly condition.

2.18 Report and Maps. The Contractor shall furnish an annual report at the end of each calendar year to the City Manager showing the number of loads of garbage, refuse and other waste hauled by him to the disposal site(s) during the year, the approximate number of cubic yards per load, and the total number of cubic yards of garbage, refuse and other waste hauled to the disposal site(s) for each month. The Contractor shall also outline on maps furnished by the City, his collection routes. Contractor shall give no less than five (5) days' notice to the City Manager of any change in the boundary of any route of the day or time of collection.

2.19 Contractor's Office. The Contractor shall be required to maintain an office provided with telephones and such attendants as may be necessary to take care of complaints, orders for special service or instructions from the City Manager. This

office shall be in operation between the hours of 8 a.m and 4:30 p.m., Monday through Friday, with a telephone answering or recording device available 24 hours per day, seven days per week, to take messages when no one is on duty. The telephones provided in such office shall be on a telephone exchange which can be called from anywhere within the city limits of the City of Kirkland without a toll or other long distance charge. Two-way communications between said office and the collection vehicle shall be maintained at all times between the hours of 6 a.m. and 5 p.m., Monday through Friday and such other times as collection vehicle may be operating within Kirkland. Such communications may be by two-way radio, paging device, or other arrangements satisfactory to the City Manager.

2.20 Special Arrangements. The Contractor agrees to remove and dispose of solid wastes from the fire stations, City Hall, library, municipal garages, park shops, recreational hall, and other city-owned and occupied buildings used only for governmental purposes and from the city parks within the city limits of Kirkland, together with litter receptacles located throughout the Central Business District within public rights-of-way (City shall provide Contractor with current locator map) without charge to the City, provided that the same is placed in cans conveniently located for collection. Additions, deletions or changes in collection shall be subject to change as directed by the City Manager.

Contractor shall also furnish, place and timely remove when so requested by City, temporary 4 yard or 6 yard containers to be used for collection of solid waste resulting from "neighborhood cleanup programs, including "alley cleanup" programs.

2.21 Annexation or Consolidation. Attention is called to RCW 35.13.280 regarding the rights of franchise or permit holders for garbage collection and/or disposal within areas which may be annexed to or consolidated with the City of Kirkland. Ordinance No. 2219 of the City of Kirkland provides that such

franchise, permit or carry-over rights shall expire absolutely on the expiration of five (5) years from the effective date of such annexation or consolidation. Thereafter, Contractor shall be required to provide service within the annexed or consolidated areas on the first day of the first month following the expiration of the five-year carry-over period. The City will furnish to Contractor, a list, including a map, setting forth such annexed areas, and shall provide notice to the person, firm or corporation which is providing service to such annexed area in sufficient time to insure proper change-over in service hereunder.

Contractor shall assist the City by taking whatever steps which are legal and available to Contractor, including negotiations with the holder of any existing franchise permit or "carry over right solid waste collector" within the areas annexed to Kirkland to facilitate transfer of collection services to Contractor and that such transfer can be carried out smoothly and without disruption of solid waste collection services.

2.22 Permit to Haul Own Garbage or Refuse. Those permits which have previously been issued to allow private hauling by residents or establishments, who, because of special circumstances, as defined in Kirkland Municipal Code Section 16.08.120, require such permission, shall remain in force and effect. No new additional or extended permits for the private collection or disposal of garbage or refuse shall be granted within the City of Kirkland without the approval of the City and the Contractor.

2.23 Operating Permit. The Contractor shall obtain and pay for any permits or licenses required by the City or any other governmental authority which may be required under this contract, provided, that the City shall not increase the cost or expense of any City permits or licenses to the Contractor during the term of this agreement unless such increase is a general increase in permit fee or cost required of all persons obtaining such permit

or license. Further, the Contractor shall be obligated to protect all public and private utilities whether occupying street or public or private property. If any such utilities are damaged by reason of the Contractor's operations under this contract, he shall repair or replace the same, or failing to do so promptly, the City Manager shall cause repair or replacement to be made, and the cost of doing so shall be billed to the Contractor monthly.

2.24 Liability Insurance. The Contractor shall provide and maintain in full force and effect during the entire term of this contract, or any renewal thereof, a policy or policies of public liability insurance naming the City as an additional insured, providing for limits of not less than \$1,000,000 for all damages arising out of bodily injury to or death of one person, and subject to that limit for each person, a total limit of not less than \$2,000,000 for all damages arising out of bodily injuries to or death of two or more persons in any one accident; and property damage, liability insurance providing for a limit of not less than \$1,000,000 for all damages arising out of or injury or destruction of property during the term of this contract.

Such policy shall provide for ten (10) days' notice to the City of change, cancellation or lapse of such insurance coverage. Contractor shall further indemnify and save the City harmless from and against any and all loss, damage, actions, claims, suits, judgments and liability in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence, conduct or operation of or by Contractor. Contractor shall also pay all costs and expenses and reasonable attorney's fees that may be incurred or paid by the City of enforcing any and all terms and covenants of this agreement.

2.25 Performance Bond. Before the contract between the Contractor and the City shall be valid or binding against the City of Kirkland, the Contractor shall furnish to the City a performance bond to be approved by the City Attorney

conditioned that the Contractor shall faithfully perform all provisions and terms of this contract and pay all laborers, mechanics, subcontractors, materialmen, and all persons who shall supply such Contractor with provisions and supplies for the carrying on of such work, which bond shall be signed by the surety company or surety, and shall be in an amount of \$500,000, which bond shall at all times be kept in full force and effect.

2.26 Contractor to Make Examinations. The Contractor shall make his own examination, investigation and research regarding proper method of doing the work, and all conditions affecting the work to be done, and the labor, equipment and materials needed thereon, and the quantity of the work to be performed. The Contractor agrees that he has satisfied himself to his own investigation and research regarding all of such conditions, and that his conclusion to enter into the proposed contract is based upon such investigation and research, and that he shall make no claim against the City because of any of the estimates, statements or interpretations made by any officer or agent of the City which may prove to be in any respect erroneous.

The Contractor assumes the risk of all conditions foreseen and unforeseen, and agrees to continue to work without additional compensation under whatever circumstances may develop other than as provided herein.

2.27 Contractor Planning Assistance. Contractor shall, upon request and without cost, make available either to the City Manager and/or the property owner technical, engineering and planning assistance in respect to all new construction or major remodeling of buildings and structures within the city limits of the City of Kirkland in respect to design and planning of garbage and/or refuse removal facilities and their location upon the site of the proposed construction or remodeling project.

The City agrees to require as part of the City's permitting process for construction permits, a written recommendation from the Contractor as to the siting of enclosures or location of

Contractor may be required to collect under the terms of this agreement.

2.28 Workmen. All workmen employed shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this contract due to the contractor's inability to obtain workmen of the number and skills required shall constitute a default of this contract. Whenever the contractor is not present on the work, orders may be given by the City Manager to the superintendent or foreman who may have immediate charge thereof. If any person employed on the work shall refuse or neglect to obey the direction of the City Manager or in the opinion of the said City Manager shall be incompetent, unfaithful, disorderly or otherwise unsatisfactory, he shall upon the order of the City Manager be at once replaced.

2.29 Company Name. Contractor shall not use a firm name containing the words "Kirkland", "City", or any words implying municipal ownership.

2.30 Special Circumstance and Special Circumstance Customers. Contractor hereby agrees to allow the City to deduct 1% of the gross revenue billed by Contractor on residential accounts to provide for such special circumstances which may include provision of reduced rates for garbage and refuse collection by way of necessary support assistance of the poor and infirm if permitted by the Washington State Constitution, and such other special circumstances as may be determined by the City Manager. All matters and determinations relating to the use and expenditure of such fund shall be the sole responsibility of the City and Contractor shall have no obligations in respect thereto.

2.31 Solid Waste Collection, Disposal and/or Recycling Innovations. Contractor shall keep abreast of all alternatives regarding the collection, disposal and recycling of solid waste and waste stream reduction, and shall advise the City and cooperate with it in respect to any possible innovations, changes

cooperate with it in respect to any possible innovations, changes or improvements that could be accomplished in respect to performance of this agreement. As between Contractor and City, ownership of all garbage refuse and rubbish from the point of collection or contractor pick up, to disposal at a disposal site or otherwise, shall be deemed to be vested in the City. The Contractor shall provide the City upon written request with a complete accounting of all revenue-producing transactions. The City reserves the right to at any time in the future, upon written notice given to the Contractor, to negotiate the percentage share of such revenues to be paid over to the City.

Pursuant to Chapter 431 Laws of 1989 adopted by the 1989 Washington State Legislature during its regular session (effective July 23, 1989), and the King County-City of Kirkland Solid Waste Management Interlocal Agreement, Kirkland is required to, prior to July 1, 1992, plan for and put in place programs for waste stream reduction and collection of recyclable materials. Contractor shall provide consultation and assistance to the City in preparation by the City of its waste stream reduction and recycling plans. Elements of that plan will include identification of types of materials to be recycled, availability of markets for recycled materials, mandatory or voluntary residential recycling programs, voluntary non-residential recycling programs, schedules for collection of materials to be collected curbside, "drop box" and/or "buy back center" locations for materials not to be collected curbside; other recycling strategies as required by Section 3.(7)(c) of Chapter 431 Laws of 1989 and an assessment of the plan's impact on the costs of solid waste collection.

Contractor will provide City with Recycling and Waste Stream Reduction statistical information and records, as will permit the City to complete the Recycling and Waste Reduction Plan performance assessments and other reports required of the City under Chapter 431, Laws of 1989 and the King County Solid Waste Management Comprehensive Plan.

Those residential customers who set out for collection more than 180 gallons of solid waste must make application through the City for an "Excessive Generator Permit". The Contractor must notify these customers of their obligation to obtain said permit and submit a copy of all such notifications to the City. The City will notify the Contractor of any new permit holders on a monthly basis.

Yardwaste Collection. Beginning March 1, 1990, the Contractor agrees to collect all residential yardwaste on a weekly basis (except during the months of December through February, inclusive, when yardwaste collection will be performed on the last garbage collection day of each month) from every single-family residential and residential duplex unit. Yardwaste shall be defined as grass, leaves and bundled brush (branches, twigs and limbs no greater than 2" in diameter and no longer than three feet). Collection shall be performed on the same day as garbage collection. Participation by residents may be voluntary during the months of December through February, inclusive, when yardwaste collection will be performed on the last garbage collection day of each month) from every single-family residential and residential duplex unit. Yardwaste shall be defined as grass, leaves and bundled brush (branches, twigs and limbs no greater than 2" in diameter and no longer than three feet). Collection shall be performed on the same day as garbage collection. Participation by residents may be voluntary, and those who wish to participate will be directed to set their yardwaste container within five feet of the curb or alley and a minimum of three feet from any solid waste container which has been set out for collection.

Contractor shall provide each participating residential customer with a 90 gallon yardwaste wheeler to be labeled "yardwaste only".

Contractor will develop (subject to City approval) a yardwaste collection program brochure to be mailed to City

residential customers by the City. Contractor shall prepare and submit to the City monthly reports on the weekly amount of residential solid waste collected, amount of yardwaste collected, amount waste diversion achieved, the number of homes participating in the program and recommendations to improve the participation or overall program. Contractor shall prepare and provide to City such other analytical and performance reports as will assist the City in carrying out the waste reduction and recycling performance audit required of the City by Chapter 431 Laws of 1989 and the King County-City of Kirkland Solid Waste Management Interlocal Agreement.

Additional Recycling Services. Should the City decide to initiate other programs for source separation and curbside collection from residential customers of materials other than yardwaste, the City shall, prior to the effective date of initiation of such program, negotiate with Contractor a reasonable special collection rate to be paid to Contractor by the City for the collection of such source separated materials and the Contractor shall then collect them. Provided that if no agreement is reached between the City and the Contractor for a reasonable collection rate and the City decides nevertheless to initiate such a program, then in that event, said source separated materials shall not be considered within the scope of this Contract and the City may make other provisions for its collection and disposal, including but not limited to, contract for collection by a third party engaged in the collection of recyclable materials, utilization of drop box or recycling buy back centers. In no event, shall the fees paid by the City to said third party exceed the fees for the same services proposed by the Contractor.

Should the City decide to initiate a program for source separation and collection of commercial or industrial generated recyclable materials for those commercial and industrial solid waste customers of the City who may voluntarily participate, the

City shall, prior to the effective date of initiation of such program, negotiate with Contractor a reasonable special collection rate to be paid to Contractor by the City for the collection of such source separated materials and the Contractor shall then collect them. Provided that if no agreement is reached between the City and the Contractor for a reasonable collection rate and the City decides nevertheless to initiate such a program, then in that event, said source separated materials shall not be considered within the scope of this Contract and the City may make other provisions for its collection and disposal, including but not limited to, contract for collection by a third party engaged in the collection of recyclable materials. In no event, shall the fees paid by the City to said third party exceed the fees for the same services proposed by the Contractor.

The Contractor agrees that should the City require the Contractor to provide the recycling services stated in this subsection, the garbage collection rates contained in Appendix A will be subject to modifications as part of the negotiating process.

2.32 Affirmative Action Plan. Contractor shall at all times during the term of this contract, engage in employment practices in a manner whereby equal employment opportunity is observed and practiced without regard to race, color, religion, age, sex or national origin, except to the extent of bona fide occupational qualifications. Contractor will post its Equal Employment Opportunity Policy and Affirmative Action Plan in conspicuous places throughout its facilities and publicize such policy and plan to all suppliers and to all unions which it has contractual agreements. Such plan shall be implemented and followed in all respects during the entire terms of this agreement.

2.33. Liquidated Damages. As a breach of the service provided by this contract would cause serious and substantial damage to the City and its occupants, and the nature of the

contract would render it impracticable or extremely difficult to fix the actual damage sustained by the City by such breach, it is agreed that in case of breach of service, the City may elect to collect liquidated damages for each such breach and the Contractor will pay to the City as liquidated damages and not as a penalty, the amount set forth below, such sums being agreed as the amount which the City will be damaged by the breach of such service. The election to impose liquidated damages should be made by the Director of Administration and Finance, and Contractor may appeal such election to the City Manager whose determination shall be final. An election to seek such remedies shall not be construed as a waiver of any legal remedies the City may have as to any subsequent breach of service under this contract.

A truck beginning residential collection prior to 7 a.m. - \$10 per day. Failure to collect misses within 24 hours of notification to the Contractor - \$25 each, not to exceed ten (10) complaints per truck per day.

Repetition of complaints on a route after notification to replace cans or detachable containers in designated locations, spilling, not closing gate, crossing planted areas, or similar violations - \$5 each, not to exceed ten (10) complaints per truck per day.

PROVIDED, HOWEVER, that Contractor shall not be subject to any damages for any failure in service due to circumstances beyond its control, including, but not limited to, acts of God, strikes, riots, insurrection, war, or civil disobedience. Such liquidated damages as the City shall elect to collect, will be billed to the Contractor monthly.

2.34 Holidays. Contractor shall designate which holidays he will observe, and indicate the schedule he will work if the holiday falls on a regular collection day.

2.35 Improvements to City's Streets and Alleys, etc. The City reserves the right to construct any improvement or to permit

any such construction in any street or alley in such manner as the City council may direct, which may have the effect for a time of preventing the Contractor from traveling his accustomed route or routes for collection. Contractor shall, however, by the most expedient manner, continue to collect garbage and refuse to the same extent as though no interference existed upon the streets or alleys normally traversed. This shall be done at no extra expense to the City.

2.36 Reports. All reports required to be submitted to the City by the Contractor shall be on forms approved by the City and shall be typed or legibly printed. Such reports shall include collection routes, residential pick ups, schedules, non-residential pick up schedules, including numbers of cans or containers, number of pick ups per week as to each non-single family residential customer. At the option of the City, the reports may include, as to non-single family residential customers (commercial customers), monthly or bimonthly individual customer activity reports in a form of sufficient detail on a customer by customer basis, in order to allow coordination with the City's billing cycles, so as to permit the City to utilize the customer report as the customer's billing statement from the City. It is the intention of both parties that such customer activity reports will be transmitted to the City by electronic transmission means as soon as such means become feasible.

2.37 Cans, Containers, etc. Residential customers, who do not use "waste wheelers", shall provide, at their own expense, garbage cans or other suitable containers meeting the requirements of Chapters 16.4 and 16.8 of the Kirkland Municipal Code. Multiple family residential customers or non-residential commercial or industrial customers shall provide, at their own expense, garbage cans or other suitable containers meeting the requirements of Chapters 16.4 and 16.8 of the Kirkland Municipal Code, either as to garbage cans, ordinance units, or detachable containers, unless such containers are leased from the

Contractor. Where detachable containers are used, they shall be of such design as can be serviced by Contractor's collection equipment. In this connection, the Contractor may enter into an agreement with the customer to furnish such containers or containers or garbage can or cans as the disposal needs of the customer may require at the rate set forth herein. Such agreement shall be entirely between the Contractor and the customer, and any cost or charge therefor by the Contractor shall be billed and collected by the Contractor, except as to "waste wheelers" used by residential customers.

Any charge made to a residential customer for use of a "waste wheeler" shall be billed as a part of the City garbage billing to the residential customer. The City shall pay to the Contractor for each waste wheeler provided by the Contractor upon request of a residential customer, the amount set forth in Appendix B attached to this contract. In the event any residential customer fails to pay the monthly or periodic waste wheeler charge billed by the City, the City may deduct such non-payment from the payment for waste wheelers due from the City to Contractor. From and after November 1, 1983, the Contractor shall pay to the City of Kirkland, a set-up charge for each new waste wheeler provided to a residential customer at the customer's request. Such set-up charge shall be in the amount of \$3.

All garbage cans, detachable containers, or ordinance unit bags or wrappers must conform to the requirements of Chapter 16.4 and 16.8 of the Kirkland Municipal Code, and any applicable rules or regulations of the King County Health Department and the Department of Ecology.

2.38 Construction Site Containers. No containers, including containers placed temporarily at construction sites within the City, shall be so located or placed as to either hinder the safe and free travel of pedestrians, motor vehicles or other users of public rights of way or be placed within any public right of way unless there is first obtained from the City, a street use

permit, including the payment of any fee and the filing of any liability insurance in force, certificates and/or bonds which may be required for such street use permit. Such container, while so placed, shall at all times, be identified by the placing of lighted barricades of the type normally used in connection with street construction. Construction site containers must be of a design which is compatible with Contractor's pick up or removal equipment. Contractor shall notify City of each pick up and disposal from construction or other temporary solid waste containers, including name and billing address for each such temporary customer. The City will then bill the temporary or construction waste customer and as payment for said billings are received by the City, remit over to Contractor the the appropriate rate as set forth in Appendix A, II F, which shall be the entire consideration received by Contractor for pick up and disposal of solid waste from construction site and other temporary containers, provided that the City may assign to the Contractor for collection any unpaid amounts or balances billed to temporary or construction waste customers.

The presence of the foregoing paragraph in this Contract shall not be deemed to be an exclusive grant to Contractor of the right to furnish or rent "construction site containers".

Rental rates, including any taxes thereon, for construction site containers rented or furnished by Contractor shall be billed by Contractor directly to the customer or property owner and collected by Contractor, such rental rates shall not exceed the rates established in Appendix C to this agreement.

2.39 Save Harmless. The Contractor does hereby guarantee to save harmless and indemnify the City of Kirkland from any and all loss, damage, claims, suits, judgments or recoveries which may be asserted, made or may arise or be had, brought or recovered against the City arising and/or alleged to arise out of this contract, including but not limited to any claims or allegations alleging anti-trust violations and/or any acts or omissions of

the Contractor, its agents, or employees and that the Contractor shall immediately appear and defend the same at its own cost and expense. Such indemnity shall include but not be limited to any liability that may arise or occur or be alleged to arise or occur from the concurrent, contributing or joint acts and omissions or negligence of the City and the Contractor; provided that nothing in this section shall be construed as indemnification against claims proximately caused by the sole negligence of the City, its agents, or employees. The Contractor shall also pay all costs and expenses and reasonable attorney's fees that may be included or paid by the City in enforcing any and all terms and covenants of this agreement.

2.40 Special Wastes. The following identified waste materials are, for the purposes of this Contract, defined as "special wastes". Except as provided for below, special wastes are excluded from the collection provisions of this Contract, however, Contractor shall provide to all generators of special wastes within the City consultation and advisory services as to safe methods for storage and disposal of special wastes. Nothing in this Contract shall be deemed to prevent Contractor from collecting, transporting and/or disposing of any special wastes in accordance with applicable federal and state requirements and regulations, so long as such actions are performed separate and apart from any actions taken in the performance of this Contract; provided however, to the extent that any special waste so collected is acceptable for disposal at a King County owned and operated dump or disposal site, said special wastes shall be included and collected under the provisions of this Contract and disposed of by Contractor at said King County disposal site.

Special wastes defined. Term "special wastes" includes the following types of nonsingle-family residential waste:

1. Containerized waste (e.g. a drum, portable tank, lugger box, roll-off box, paid, bulk tanker, etc.) listed in 2 - 7 below. Waste in drums, tanks,

or other large containers - i.e. liquids, sludges, powders, grits, and other industrial wastes whose identity is not defined.

2. Waste containing free liquids. "Free liquids" means liquid that can run out of waste if put in filter.

3. Sludge waste. Sludge is defined as "a solid or semi-solid material containing less than 40% by weight solids, and is not a free liquid.

4. Waste from an industrial process. An industrial waste that is not office type or residential type waste can conceivably fit in this category.

5. Waste from a pollution control process. Wastes from water treatment processes, air pollution control process (such as baghouses, etc.) or other pollution control processes. Water and air are the most common.

6. Residue from a spill of a chemical substance or commercial product or a waste listed in 1 - 5 or 7.

7. Contaminated residuals from the cleanup of a facility generating, storing, treating, recycling, or disposing wastes, chemical substances or commercial products listed in 1 - 6.

8. Friable asbestos from building demolition or cleaning; wall board, wall spray coverings, pipe insulation, etc. Nonfriable asbestos is a special waste if it has been processed, handled, or used in such a way that asbestos fibers may be freely released.

9. Commercial products or chemicals which are off-specification, outdated, unused, or banned. Out-dated or off-specification uncontaminated food or beverage products in original containers are not special waste.

This category includes containers which once held commercial products or chemicals unless the container is empty. A container is empty when:

- a. All wastes have been removed that can be removed using the practices commonly

employed to remove materials from the type of container, e.g., pouring, pumping, or aspirating, and

b. An end has been removed (for containers in excess of 25 gallons), and

c. No more than 1 inch of residue remains in the bottom of the container or inner liner, or

d. No more than 3.0 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons), or

e. No more than 0.3 percent by weight of the total capacity of the container remains in the container (for containers larger than 110 gallons).

Containers which once held acutely hazardous wastes (as defined under U.S. or Canadian Federal rules) must be triple rinsed with an appropriate solvent or cleaned by an equivalent method to be considered empty. Alternately, the container's lining may be removed and managed as a hazardous waste by Chemical Waste Management or other equivalent company. Containers which held substances regulated under the Federal Insecticide, Fungicide and Rodenticide Act must be emptied according to label instructions or triple rinsed with an appropriate solvent.

Cylinders of compressed gas are empty when the pressure in the container is substantially equivalent to atmospheric pressure.

10. Untreated bio-medical waste - Any waste capable of inducing infection due to contamination with infectious agents from a bio-medical source including but not limited to a hospital, medical clinic, nursing home, medical practitioner, mortuary, taxidermist, veterinarian, veterinary hospital, animal testing laboratory, or university medical laboratory. Any sharps from these sources must be rendered harmless or placed in needle puncture-proof containers.

11. Treated bio-medical wastes - Any wastes from a bio-medical source including but not limited

to a hospital, medical clinic, nursing home, medical practitioner, mortuary, taxidermist, veterinarian hospital, animal testing laboratory, or university medical laboratory which has been autoclaved or otherwise heat treated or sterilized so that it is no longer capable of inducing infection. Any sharps from these sources must be rendered harmless or placed in needle-proof containers.

12. Liquids and sludges from septic tanks, food service grease traps, or washwaters and wastewaters from commercial laundries, laundromats and car washes unless these wastes are managed at public or commercial wastewater treatment works;

13. Chemical-containing equipment removed from service. (Examples: filters, cathode ray tubes, lab equipment, acetylene tanks, fluorescent light tubes, etc.)

14. Waste produced from the demolition or dismantling of industrial process equipment or facilities contaminated with chemicals from the industrial process.

2.41 Household Hazardous Waste Collection Program. As a part of the services to be rendered under this contract, Contractor agrees to provide on, up to four Saturdays a year as determined by the City, a household hazardous waste collection program. The City shall provide the collection site and all traffic control to the site. The City may also designate and provide a temporary auxiliary storage site for drums of collected containerized household hazardous wastes which cannot be hauled directly to the hazardous waste disposal site in Arlington, Oregon. (For example, aerosol cans).

The household hazardous waste collection program shall be limited to residents of the City of Kirkland. Contractor will provide, and the City shall circulate to Kirkland residents, promotional information, including scheduled collection dates, designated collection sites, any special handling requirements for delivery of household hazardous wastes by residents to the collection site and a "entry pass" to the designated collection site.

On each scheduled collection date, the City shall be responsible for the availability of a hazardous materials response team.

Contractor shall receive compensation for the household hazardous waste collection program as set forth in Exhibit D.

2.42 Qualified Senior Citizen Rate. Contractor's compensation rates for collection of solid waste from single family residences occupied by qualified senior citizens shall be as set forth in Appendix A. "Qualified senior citizens" means those persons who meet the following qualifications:

- 1. Must be living in a single family residential unit.
- 2. Applicant and spouse, if married, must be 62 years of age or older.
- 3. Income must not exceed (from all sources of income) the following levels:

Single Person - \$727.50 per month

Married Persons - \$1,091.34 per month

Proof of qualification, including verification of income level, must be made by affidavit of qualification signed by the senior citizen customer and filed with the City of Kirkland.

The City shall provide Contractor on a current basis with the name, address and qualification verification for each qualified senior citizen customer.

EXECUTED at Kirkland, Washington, the day and year written above.

CITY OF KIRKLAND:

SNO-KING GARBAGE CO., INC.,
Contractor

By: _____

By: _____

ATTEST:

City Clerk

APPENDIX A
 SCHEDULE OF RATES AND CHARGES
 BILLED BY CONTRACTOR TO THE CITY
 OF KIRKLAND

Effective Date 1-01-90
 Based on disposal cost of \$47.00/ton

I. RESIDENTAL SERVICE:

A. RESIDENTAL SINGLE FAMILY

One pick-up per week, everyting placed for pick-up by resident - Mandatory.

Also includes yardwast collection with yardwaste cart.

	<u>PER MONTH</u>
Curbside	\$8.00
0 - 25 feet	\$8.00
26 - 50 feet	\$8.88
Additional 25 feet increments	\$.80

B. QUALIFIED SENIOR CITIZEN RATE: 60% of above rates

C. MISCELLANEOUS SERVICE FEES

Drive-in	\$1.60/month
Return trip	\$2.40/occurrence

D. TEMPORARY CONTAINER SERVICE

4 Yard	\$38.54/pickup
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II. COMMERCIAL SERVICE:

A. CAN SERVICE

	<u>PER MONTH</u>	<u>MINIMUM/MONTH</u>
1st 8 (eight) cans	\$7.61	\$7.61
Each Additional Can	\$1.29	

B. CART SERVICE

90 Gallon	\$4.84	\$19.36
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C. CONTAINER SERVICE - LOOSE (PERMANENT)

	<u>PER PICKUP</u>	<u>MINIMUM/MONTH</u>
1 Yard	\$ 8.11	\$ 32.44
1.5 Yards	\$11.23	\$ 44.92
2 Yards	\$13.77	\$ 55.08
3 Yards	\$19.59	\$ 78.36
4 Yards	\$24.14	\$ 96.56
6 Yards	\$30.38	\$121.52
8 Yards	\$38.54	\$154.16

D. CONTAINER SERVICE - COMPACTOR

	<u>PER PICKUP</u>
2 Yards	\$ 37.07
3 Yards	\$ 55.21
5 Yards	\$ 90.69
6 Yards	\$107.88

E. ROLL OFF SERVICE - LOOSE (PERMANENT)

	<u>PER PICKUP</u>	<u>MINIMUM/MONTH</u>
10 Yards	\$37.20	\$ 74.40
20 Yards	\$54.39	\$108.78
25 Yards	\$67.99	\$135.98
30 Yards	\$81.59	\$163.18
40 Yards	\$88.45	\$176.90

F. ROLL OFF SERVICE - LOOSE (TEMPORARY)

	<u>PER PICKUP</u>
10 Yards	\$64.90
20 Yards	\$72.17
25 Yards	\$75.78
30 Yards	\$83.80

G. ROLL OFF SERVICE - COMPACTORS

	<u>PER PICKUP</u>
10 Yards	\$ 59.85
15 Yards	\$ 69.43
20 Yards	\$ 92.57
25 Yards	\$115.72
30 Yards	\$138.86
40 Yards	\$185.15

H. MISCELLANEOUS SERVICE FEES

Container rollouts (over 10 feet)	\$1.68/occurrence
Unlocking lids	\$1.34/unlocking
Opening gates	\$1.34/opening
Hydraulic & Electric disconnects	\$4.90/occurrence
Compactor turnarounds	\$4.90/occurrence
Standby time (over 5 minutes)	\$.85/minute
Mileage charge (over 10 miles/r.t.)	\$2.50/mile
Return trips	\$9.80/trip
Commercial can distance charge (over 50 feet)	\$.20/can each pickup
Extra Units	\$1.31
Extra Boxes	\$1.31
Extra Bags	\$1.31
Extra Yards	\$8.22

APPENDIX B

SCHEDULE OF RENTAL CHARGES TO BE BILLED BY CONTRACTOR
 TO THE CITY FOR 90 & 60 GALLON GARBAGE CARTS PLACED IN
 SERVICE AT RESIDENTIAL CUSTOMER REQUEST

Effective date: 1/01/90

<u>Cart Size</u>	<u>Time Period</u>	<u>Rate Per Month</u>
90 Gallon	1/01/90 - 12/31/91	\$1.50
	1/01/92 - 12/31/93	\$1.60
	1/01/94 - 12/31/94	\$1.70
60 Gallon	1/01/90 - 12/31/91	\$1.30
	1/01/92 - 12/31/93	\$1.40
	1/01/94 - 12/31/94	\$1.50

APPENDIX C

SCHEDULE OF RENTAL CHARGES BILLED BY CONTRACTOR
TO THE CUSTOMER (NON-SINGLE FAMILY RESIDENTIAL)
FOR RENTAL OF CONTAINERS

Effective Date: 1/01/90

CONTAINER SERVICE (PERMANENT CUSTOMERS)

<u>Size</u>	<u>Rent Per Month</u>	<u>Delivery Fee</u>
1 Yard	\$10.02	\$ 5.00
1.5 Yards	\$12.18	\$ 5.00
2 Yards	\$13.80	\$ 5.00
3 Yards	\$16.02	\$ 5.00
4 Yards	\$20.40	\$ 5.00
6 Yards	\$29.82	\$ 5.00
8 Yards	\$34.20	\$ 5.00
10 Yards	\$71.76	\$10.00
20 Yards	\$84.60	\$10.00
25 Yards	\$84.60	\$10.00
30 Yards	\$84.60	\$10.00
40 Yards	\$89.20	\$10.00

CONTAINER SERVICE (TEMPORARY CUSTOMERS)

<u>Size</u>	<u>Rent Per Day</u>	<u>Delivery Fee</u>
4 Yards	\$2.50	\$10.00
10 Yards	\$4.95	\$22.00
20 Yards	\$5.05	\$22.00
25 Yards	\$5.49	\$22.00
30 Yards	\$6.25	\$22.00

APPENDIX D
RATES AND CHARGES
BILLED BY CONTRACTOR TO THE CITY
FOR PARTICIPATION IN HOUSEHOLD
HAZARDOUS WASTE COLLECTION PROGRAM

Effective Date 1-01-90

For each day the household hazardous waste collection program
is conducted - \$5,555.00.