



# King County

1200 King County  
Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Meeting Agenda Government Accountability and Oversight Committee

*Councilmembers:*  
*Pete von Reichbauer, Chair;*  
*Steffanie Fain, Vice Chair;*  
*Claudia Balducci, Reagan Dunn*

*Lead Staff: Gene Paul (206-477-9378)*  
*Committee Clerk: Blake Wells (206-263-1617)*

**9:30 AM**

**Tuesday, May 12, 2026**

**Hybrid Meeting**

**Hybrid Meetings:** Attend the King County Council committee meetings in person in Council Chambers (Room 1001), 516 3rd Avenue in Seattle, or through remote access. Details on how to attend and/or to provide comment remotely are listed below.

Pursuant to K.C.C. 1.24.035 A. and F., this meeting is also noticed as a meeting of the Metropolitan King County Council, whose agenda is limited to the committee business. In this meeting only the rules and procedures applicable to committees apply and not those applicable to full council meetings.

**HOW TO PROVIDE PUBLIC COMMENT:** The Government Accountability and Oversight Committee values community input and looks forward to hearing from you on agenda items.

There are three ways to provide public comment:

1. In person: You may attend the meeting and provide comment in the Council Chambers.
2. By email: You may comment in writing on current agenda items by submitting your email comments to [committees@kingcounty.gov](mailto:committees@kingcounty.gov). If your email is received by 8:30 a.m. on the day of the meeting, your email comments will be distributed to the committee members and appropriate staff prior to the meeting.
3. Remote attendance at the meeting by phone or computer (see "Connecting to the Webinar" below).

You may provide oral comment on current agenda items during the meeting's public comment period.

	<p>Sign language and interpreter services can be arranged given sufficient notice (206-848-0355). TTY Number - TTY 711.</p> <p>Council Chambers is equipped with a hearing loop, which provides a wireless signal that is picked up by a hearing aid when it is set to 'T' (Telecoil) setting.</p>	
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You have the right to language access services at no cost to you. To request these services, please contact Language Access Coordinator, Tera Chea at 206 477 9259 or email [tera.chea2@kingcounty.gov](mailto:tera.chea2@kingcounty.gov) by 8:30 a.m. three business days prior to the meeting.

**CONNECTING TO THE WEBINAR:**

Webinar ID: 871 9559 4726

By computer using the Zoom application at <https://zoom.us/join> and the webinar ID above.

Via phone by calling 1 253 215 8782 and using the webinar ID above.

**HOW TO WATCH/LISTEN TO THE MEETING REMOTELY:** There are several ways to watch or listen in to the meeting:

- 1) Stream online via this link: <http://www.kingcounty.gov/kctv>, or input the link web address into your web browser.
- 2) Watch King County TV on Comcast Channel 22 and 322(HD) and Astound Broadband Channels 22 and 711(HD)
- 3) Listen to the meeting by telephone – See “Connecting to the Webinar” above.

To help us manage the meeting, if you do not wish to be called upon for public comment please use the Livestream or King County TV options listed above, if possible, to watch or listen to the meeting.

1. Call to Order

To show a PDF of the written materials for an agenda item, click on the agenda item below.

2. Roll Call

3. Approval of Minutes p. 4

*April 24, 2026 meeting minutes*

4. Public Comment



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TTY Number - TTY 711.  
Council Chambers is equipped with a hearing loop, which provides a wireless signal that is picked up by a hearing aid when it is set to 'T' (Telecoil) setting.



## Discussion and Possible Action

5. [Proposed Ordinance No. 2025-0286](#) p. 6

AN ORDINANCE authorizing the execution of a franchise agreement with HyperFiber of Washington, LLC, for use of certain King County road rights-of-way in unincorporated King County for the construction, operation, and maintenance of wireline telecommunications transmission facilities.

**Sponsors:** von Reichbauer

*Terra Rose, Council staff*

## Discussion Only

6. [Proposed Ordinance No. 2026-0101](#) p. 99

AN ORDINANCE relating to the prevention, detection, and response to fraud, waste, and abuse of county-administered moneys, and creating an inspector general division within the office of public complaints.

**Sponsors:** Dembowski, Dunn, Perry, von Reichbauer and Fain

*Miranda Leskinen, Council staff*

## Briefings

7. [Briefing No. 2026-B0060](#) p. 179

Auditor on Fraud and Ethics Issues

*Kymer Waltmunson, King County Auditor*

8. [Briefing No. 2026-B0066](#) p. 186

Citizens' Elections Oversight Committee

*Christopher Hays, Chair, Citizens' Elections Oversight Committee*

## Other Business

## Adjournment



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# King County

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## Meeting Minutes Government Accountability and Oversight Committee

**Councilmembers:**

*Pete von Reichbauer, Chair;  
Steffanie Fain, Vice Chair;  
Claudia Balducci, Reagan Dunn*

*Lead Staff: Gene Paul (206-477-9378)  
Committee Clerk: Blake Wells (206-263-1617)*

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9:30 AM

Friday, April 24, 2026

Hybrid Meeting

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### SPECIAL MEETING - DRAFT MINUTES

1. **Call to Order**

*Chair von Reichbauer called the meeting to order at 9:30 AM.*

2. **Roll Call**

**Present:** 4 - von Reichbauer, Dunn, Fain and Balducci

3. **Approval of Minutes**

*Vice Chair Fain moved approval of the March 10, 2026 meeting minutes. There being no objections, the minutes were approved.*

4. **Public Comment**

*The following people provided public comment:*

*Alex Tsimerman*

### **Briefings**

5. **[Briefing No. 2026-B0055](#)**

Auditor's Office and Ombuds Office report on Fraud Risk Management and Response

*KyMBER Waltmunson, King County Auditor, and Jeremy Bell, Director, King County Office of the Ombuds, briefed the committee via PowerPoint presentation and answered questions from the members.*

**This matter was presented.**

6. [Briefing No. 2026-B0056](#)

KCIA Briefing

*John Parrott, Director, King County International Airport, briefed the committee via PowerPoint presentation and answered questions from the members.*

**This matter was presented.**

7. [Briefing No. 2026-B0057](#)

Audit Report: Medical Examiner's Office: Continuous Improvement Can Strengthen Control Environment

*Kymer Waltmunson, King County Auditor, Elise Garvey, Principal Auditor, King County Auditor's Office, and Grant Dailey, Senior Auditor, King County Auditor's Office, briefed the committee via PowerPoint presentation and answered questions from the members. Tesia Forbes, Prevention Division Director, Public Health, and Jesse Chipps, Administrator, HIV Planning Council, Public Health also answered questions from the members.*

**This matter was presented.**

## Adjournment

*The meeting was adjourned at 11:06 AM.*

Approved this \_\_\_\_\_ day of \_\_\_\_\_

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Clerk's Signature



**King County**

**Metropolitan King County Council  
Government Accountability and Oversight Committee**

**STAFF REPORT**

<b>Agenda Item:</b>	5	<b>Name:</b>	Terra Rose
<b>Proposed No.:</b>	2025-0286	<b>Date:</b>	May 12, 2026

**SUBJECT**

Proposed Ordinance 2025-0286 would authorize the Executive to execute a franchise agreement with HyperFiber of Washington, LLC ("HyperFiber"), for the use of road rights-of-way in unincorporated King County for the construction, operation, and maintenance of wireline telecommunications transmission facilities.

**SUMMARY**

King County Code ("KCC") Chapter 6.27 requires persons and private or municipal corporations to obtain a franchise for the use of the rights-of-way ("ROW") of County roads by submitting an application to the Facilities Management Division ("FMD") and receiving approval from the Council.

Proposed Ordinance 2025-0286 would authorize the Executive to execute a nonexclusive, negotiated franchise agreement with HyperFiber for the installation and use of wireline telecommunications transmission facilities in County ROW. The transmittal letter states that HyperFiber is a for-profit corporation that intends to build a broadband fiber optic network to serve residential and business customers in areas of unincorporated King County. The letter further indicates that the network will include aerial pathways on utility poles and underground pathways using conduit installed in the ROW.

The proposed franchise agreement would have an initial term of ten years, with the option of the Director of the King County Department of Information Technology ("KCIT") to extend the agreement for an additional fifteen years. The proposed ordinance states that the franchise area would include unincorporated areas in Council Districts 5, 7, and 9. However, the franchise area description in the exhibits of the proposed agreement does not match the ordinance. Executive staff indicate that this is an error and have requested that the franchise area encompass all unincorporated areas in King County. Amendment 1 would make this change, as well as make other technical corrections and clarifying edits to the franchise agreement language.

## **BACKGROUND**

**Franchise Authority and Process.** King County has the authority through state law<sup>1</sup> to grant franchises for the use of ROW of County roads for the construction, operation, and maintenance of public and private utilities, including water, electric, and telecommunication utilities.

King County Code ("KCC") Chapter 6.27 requires persons, as well as private or municipal corporations, to obtain a franchise for the use of ROW, which must be consistent with the criteria outlined in code. The application must be submitted to and negotiated with FMD and approved by the Council.

KCC Chapter 4A.675, together with KCC 6.27.054, sets forth fees and charges to be paid for by the franchise applicant, including an application fee of \$2,500, an advertising fee that covers the full costs to advertise the application, and a surcharge to recover the County's costs in reviewing and processing the application. Additional fees may be charged throughout the life of the agreement following execution, such as for permit applications to work in the ROW.

KCC Chapter 6.27 identifies criteria for franchise approval and requires each franchise application to be reviewed by the Department of Executive Services and Department of Local Services.

## **ANALYSIS**

Proposed Ordinance 2025-0286 would authorize the Executive to execute a nonexclusive, negotiated franchise agreement with HyperFiber for the installation and use of wireline telecommunications transmission facilities in County ROW (Attachment A). The transmittal letter states that HyperFiber is a for-profit corporation that intends to build a broadband fiber optic network to serve residential and business customers in areas of unincorporated King County. The letter further indicates that the network will include aerial pathways on utility poles and underground pathways using conduit installed in the ROW.

Key terms and conditions of the franchise agreement are described below.

**Franchise Area Description.** The proposed ordinance states that the franchise area would include unincorporated areas in Council Districts 5, 7, and 9. However, the Franchise Area Description in Exhibit A to Attachment A provides only one section/township/range identifier that does not appear to match the Council districts provided.

Executive staff indicate that this is an error and have requested that the franchise area encompass all unincorporated areas in King County. According to Executive staff, there are a couple of reasons for the requested change. Executive staff indicate that franchise areas for cable franchises include all unincorporated areas countywide and that it makes sense for this practice to be applied to wireline franchises, as well, as the service

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<sup>1</sup> RCW 36.55.010

area for telecommunications utilities is generally less geographically limited than a sewer district, for example, which has a more discrete service area. Additionally, Executive staff indicate that HyperFiber is seeking a countywide franchise, as it would make it easier for them to serve customers in the unincorporate area. Amendment 1, discussed further in this staff report, would make this and other changes.

**Duration and Extension.** The franchise agreement would be effective when it is fully executed by the parties with an initial term of ten years as provided under Section 3 of the proposed agreement. The franchisee, HyperFiber, may request an extension of the initial term and the KCIT Director may extend the duration for an additional fifteen years with the appropriate notice and substantial compliance with the terms and conditions.

**Amendments and Modifications to the Franchise Agreement.** Under Section 11 of the proposed franchise agreement, the KCIT Director would be authorized to execute the following amendments without Council approval:

- Changes to the franchise area;
- Extension of the franchise agreement duration, as described previously;
- Agreements related to compensation or other consideration for the right to use and occupy the ROW;
- Adjustments to insurance requirements as provided by Section 20.13; and
- Minor technical corrections or updates.

All other amendments would be subject to Council approval.

*Incorporation or Annexation.* If the franchise area is incorporated or annexed into a city during the term of the agreement, the affected portions would be removed from the franchise area.

*Road Vacation.* If any portion of the ROW is vacated during the term of the agreement, the franchise would be automatically terminated with respect to the vacated portion of the ROW.

**Compensation.** KCC states that each franchise for electric, gas, water, or sewer utilities shall include a requirement that the grantee of the franchise provide reasonable compensation in return for the right to use the ROW. Code does not include wireline telecommunications in this language. However, Section 16 of the proposed agreement outlines the process for negotiating compensation should this language be changed in the future.

**Construction and Other Facility Obligations.** Under the terms of the proposed agreement in Section 22, HyperFiber cannot start any work within the franchise area until applicable construction permits have been issued. The exception to this would be for emergency work, where HyperFiber or the County could take corrective action without first obtaining a permit when a situation poses an immediate danger. The need to take immediate corrective action, however, does not relieve HyperFiber from its obligation to obtain a ROW construction permit or any other permits necessary for the corrective actions.

Promptly after completing any work within the County ROW, HyperFiber would be required to restore the surface of the County ROW and any adjacent areas directly affected to as good or better condition as such areas were immediately in prior to the commencement of such work (Section 25).

HyperFiber would be responsible, at no County expense, to repair, remove, relocate, or adjust all facilities if required by the County for any purpose (Section 27).

Within 90 days following the effective date, HyperFiber would be required to submit a Roadside Management Assessment to the County that includes an assessment of whether its facilities are located under or above ground and whether the facilities comply with the road standards. If not in compliance with road standards, HyperFiber would be required to remove or relocate its noncompliant facilities (Section 29).

**Default and Dispute Resolution.** The County may terminate the agreement if HyperFiber defaults on any term of the franchise agreement. Section 14 provides for a default resolution process wherein HyperFiber would be required to address the default. The County may suspend, withdraw, or decline to issue any ROW construction permits during the default.

In the case of non-default disputes that may arise throughout the duration of the agreement, Section 15 would allow for a dispute resolution process wherein the parties meet within thirty days to make a "good-faith effort" to achieve resolution. If resolution is not reached, HyperFiber and the County would enter mediation at their own expense. If resolution is still not reached, either party could follow default procedures or seek other remedies laid out in statute.

## **AMENDMENT**

**Amendment 1** would replace the transmitted franchise agreement with an updated agreement dated May 5, 2026 that would:

- Change the franchise area description and map in the Exhibits to include all unincorporated areas countywide; and
- Make technical changes and clarifying edits to the agreement language.

As noted previously, the change to the franchise area was requested by Executive staff and according to Executive staff also a request by HyperFiber.

## **INVITED**

- Chris Jaramillo, Cable Office Project/Program Manager, KCIT
- Bruce Hilton, Cable Office Project/Program Manager, KCIT

## **ATTACHMENTS**

1. Proposed Ordinance 2025-0286 (and its attachment)
2. Amendment 1 (and its attachment)
3. Transmittal Letter
4. Fiscal Note



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

### Ordinance

**Proposed No.** 2025-0286.1

**Sponsors** von Reichbauer

1 AN ORDINANCE authorizing the execution of a franchise  
2 agreement with HyperFiber of Washington, LLC, for use of  
3 certain King County road rights-of-way in unincorporated  
4 King County for the construction, operation, and  
5 maintenance of wireline telecommunications transmission  
6 facilities.

7 STATEMENT OF FACTS:

- 8 1. HyperFiber of Washington, LLC applied for and negotiated terms and  
9 conditions for use of King County road rights-of-way for the construction,  
10 operation, and maintenance of wireline telecommunications transmission  
11 facilities in unincorporated King County in council districts five, seven  
12 and nine.
- 13 2. The application and negotiated document were reviewed and approved  
14 by applicable county agencies before submission to the council.

15 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

16 SECTION 1. HyperFiber of Washington, LLC's application and negotiated  
17 agreement meet the criteria for granting of a right-of-way franchise for use of the right-  
18 of-way of county roads for the construction, operation, and maintenance of wireline  
19 telecommunications transmission facilities under K.C.C. chapter 6.27.

20            SECTION 2. The executive is authorized to execute a right-of-way franchise  
21 agreement with HyperFiber of Washington, LLC that is substantially in the form of  
22 Attachment A to this ordinance, and to take all actions necessary to implement the terms  
23 of the franchise agreement.

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Sarah Perry, Chair

ATTEST:

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Melani Hay, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Girmay Zahilay, County Executive

**Attachments:** A. HyperFiber of Washington LLC Franchise Agreement Right of Way Franchise for Wireline Communications

**HyperFiber of Washington, LLC**

**RIGHT-OF-WAY FRANCHISE  
FOR  
WIRELINE COMMUNICATIONS**

**Franchise No. FRAN25-0002**

**King County, Washington**

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**I. ESTABLISHMENT**

**RECITALS**

WHEREAS, pursuant to Article 11, Sec. 4 of the Washington Constitution, RCW 36.55.010 and Chapter 6.27 of the King County Code, King County, a home rule charter county and political subdivision of the State of Washington, is authorized to grant franchises for use of County ROW (as defined below); and

WHEREAS, King County grants franchises to persons or public and private Utility corporations to authorize the Utility companies to use County ROW to provide Utility service in unincorporated areas of King County. Franchises grant a valuable property right to Utility companies to use County ROW, and thereby allow the Utilities to profit and benefit from the use of County ROW in a manner not generally available to the public; and

WHEREAS, on February 24, 2025, HyperFiber of Washington, LLC applied for a King County Utility franchise for the right to use County ROW for the Construction, Operation, and Maintenance of Wireline Telecommunications transmission and service lines, within the Franchise Area delineated in Exhibits A and B; and

WHEREAS, the King County Department of Executive Services and Department of Local Services have reviewed HyperFiber of Washington, LLC’s application for a Utility franchise; and

WHEREAS, legal notice of the franchise application and of the hearing has been given as required by Law (as defined below); and

WHEREAS, the County Council (as defined below) held a public hearing on (date), to solicit comments from the public and to consider whether to grant the requested franchise to HyperFiber of Washington, LLC.

## APPLICATION AND HEARING

The application of HyperFiber of Washington, LLC, a limited liability company, (“Franchisee”) for a franchise to set, erect, lay, place, locate, relocate, construct, reconstruct, install, reinstall, extend, support, adjust, affix, attach, connect, align, realign, alter, modify, improve, operate, maintain, repair, remove, replace, and use transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the County ROW located within the Franchise Area described in the attached Exhibit "A" (“Franchise Area Legal Description”) and mapped in the attached Exhibit “B” (“Franchise Area Maps”) was heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## GRANT OF FRANCHISE

Pursuant to Article 11, Sec. 4 of the Washington Constitution, RCW 36.55.010, and Chapter 6.27 of the King County Code (hereafter “KCC”), King County, a home rule charter county and political subdivision of the State of Washington, has considered the application, the interests proposed and advanced, and the public comment. The County Council (as defined below) has found that it is in the public interest to grant this franchise and has ordered that a non-exclusive Wireline Telecommunications franchise be granted to HyperFiber of Washington, LLC, and its successors and assigns (“Franchisee”), subject to the terms and conditions contained in this franchise agreement (the “Franchise”).

This Franchise grants Franchisee the right, privilege, and authority to use the Franchise Area (as defined below) to set, erect, lay, construct, extend, support, attach, connect, operate, maintain, repair, relocate, remove, replace, and use Facilities (as defined below) for Wireline Telecommunications, including transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the Franchise Area.

This Franchise does not transfer, convey, or vest an easement or title in or to any County ROW or portions thereof in or to Franchisee. This Franchise is granted subject to all of the terms and conditions contained herein.

## II. TERMS AND CONDITIONS

### GOVERNANCE; RULES AND REGULATIONS

#### Section 1. Definitions

References to any County official or office also refer to any official or office that succeeds any or all of the responsibilities of the named official or office. The following definitions shall apply for the purposes of this Franchise and all exhibits attached hereto. Defined words shall have their meaning as defined in this section or elsewhere in this Franchise when capitalized in the text. Defined words in the singular will be held to include the plural and vice versa, as applicable and

depending on the context. Words not defined, and defined words when not capitalized in the text shall be given their common and ordinary meaning.

Authorized Hazardous Materials. Hazardous Materials that are reasonably necessary for Franchisee's activities authorized by the Franchise and that are customarily used in Franchisee's industry. The use of Authorized Hazardous Materials does not constitute a Release.

Colocation or Colocator. The term "Colocation" means the placement and arrangement of other users' lines, facilities, and equipment on Facilities. The term "Colocator" shall mean a third-party Utility or other authorized user to attach or occupy Facilities pursuant to Section 28 of this Franchise.

Construct or Construction. Activities performed by Franchisee, its agents, representatives, employees, and Contractors to construct, reconstruct, install, reinstall, align, realign, locate, relocate, adjust, affix, attach, modify, improve, or remove Facilities, and related activities such as digging or excavating for the above purposes.

Contractor. All agents carrying out any activities on behalf of Franchisee, including subcontractors.

County. King County, a home rule charter county and political subdivision of the State of Washington. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by a Director.

County Council. The metropolitan county council of King County, a home rule charter county, in accordance with the Constitution of the State of Washington.

County Parties. The County, its elected and appointed officials, officers, employees, agents, and contractors.

County Risk Manager. The director of the County's Office of Risk Management Services.

County Road Engineer. The county road engineer as defined in KCC 14.01.100 and specified in RCW 36.75.010 and RCW 36.80.010.

County ROW. All public land, property, or property interest, (e.g., an easement), usually in a strip, as well as bridges, trestles, or other structures, acquired by or dedicated to the County or otherwise devoted to transportation purposes, including but not limited to all maintained or unmaintained County roads, streets, avenues, or alleys. For purposes of this Franchise, "County ROW" does not include recreational or nature trails except where such trails intersect with or are located within County ROW. Any reference to use of or in the County ROW includes use in, upon, over, along, across, through, or under the County ROW, as applicable.

Default. A failure, whether intentional or unintentional, to perform, satisfy, or discharge, or to breach, any term or condition of this Franchise.

Director. (1) the Director of the King County Department of Local Services or their designee, or

(2) the Director of the Department of Executive Services or their designee, or (3) the Director and Chief Information Officer of the Department of Information Technology or their designee, depending on the context. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by a Director.

Effective Date. The date this Franchise is fully executed by the Parties.

Emergency. Any situation that creates or presents an immediate risk of danger to life, property, safety, public health, or the environment.

Environmental Laws. Any Laws or other federal, state, or local statutes, regulations, codes, rules, ordinances, orders, judgments, decrees, injunctions, proceedings, or instructions pertaining in any way to the protection of human health, safety, and the environment, including those relating to the generation, use, handling, transportation, storage, release, discharge, or disposal of Hazardous Materials. Environmental Laws may include, as applicable, the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §5101, et seq.), the Pipeline Safety Act (49 U.S.C. §60101, et seq.), the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Title 49 Code of Federal Regulations), Transportation of Hazardous Liquids by Pipeline (49 C.F.R. Part 195), the Toxic Substances Control Act (15 U.S.C. §2601, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136, et seq.), the Clean Air Act (42 U.S.C. §7401, et seq.), the Clean Water Act (33 U.S.C. §1251, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et. seq.), the Washington Hazardous Waste Management Act (RCW Chapter 70A.300), the Washington State Model Toxics Control Act (RCW Chapter 70A.305) (“MTCA”), the Washington Water Pollution Control Act (RCW Chapter 90.48), the Washington State Pipeline Safety Act (RCW Chapter 81.88), Washington Administrative Code (“WAC”) Chapters 480-90 and 480-93, the King County Critical Areas Ordinance (KCC Chapter 21A.24), and any other similar federal, state, or local environmental statute, rule, or regulation, each as enacted or amended from time to time, including any laws concerning above ground or underground storage tanks. The term shall also be interpreted to include any substance that, after released into the environment, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities.

Facilities. Collectively and as applicable, the facilities owned, co-owned, or operated by Franchisee, including all plant, equipment, fixtures, appurtenances, antennas, and other facilities in the Franchise Area necessary to furnish and deliver Wireline Telecommunications services, including but not limited to poles with cross arms, poles without cross arms, wires, lines, conduits, ducts, cables, communication and signal lines, and equipment, braces, guys, anchors, vaults, and all attachments and appurtenances necessary or incidental to the transmission, distribution, and use of Wireline Telecommunications services. For the avoidance of doubt, Facilities shall not include cable television lines or cables or wireless transmission facilities.

Found Hazardous Material(s). Hazardous Material that exists within the Franchise Area or other property, whether public or private, the presence of which was not, in whole or part, caused by the

act or omission of Franchisee Parties during or prior to the term of this Franchise.

Franchise. This franchise agreement and any mutually agreed amendments or exhibits to this franchise agreement.

Franchise Area. That portion of the County ROW wherein the County has authorized Franchisee to place Facilities, as identified and described in the attached Exhibits A and B.

Franchisee. HyperFiber of Washington, LLC, and its successors and those assignees approved pursuant to Section 17 (Transfer and Assignment).

Franchisee Parties. Franchisee, its officials, employees, and agents and all contractors and sub-contractors acting on behalf of Franchisee.

Gross Revenues. All revenue derived by Franchisee from a Colocator's use of Facilities or any component thereof. Gross Revenues shall include the value of any consideration received by Franchisee in exchange for the use of Facilities. Gross Revenues shall also include late fees, administrative fees, or any other monetary amount collected from a Colocator arising out of use of Facilities.

Hazardous Material(s). Any waste, pollutant, contaminant, deleterious substance, or other material that now or in the future becomes regulated, controlled, or defined under any Environmental Laws.

Laws. Federal, state, and local laws, regulations, and utility standards including, but not limited to, the County's Comprehensive Plan, Road Standards, King County regulations for accommodation of utilities on county road rights-of-way, zoning code, and other regulations that are applicable to any and all work or other activities performed by Franchisee pursuant to or under authority of this Franchise, Franchisee's approved comprehensive plan under KCC 13.24.010, and state and local health and sanitation regulations. Unless otherwise stated herein, references to laws include laws now in effect as of the Effective Date of this Franchise.

Maintain or Maintenance. Examining, testing, inspecting, repairing, maintaining, and replacing Facilities or any part thereof as required and necessary or as prudent for effective, efficient, and safe Operations and related activities, as performed by or on behalf of Franchisee, unless otherwise provided herein.

Operate or Operations. The operation and use of Facilities for transmission or delivery of Wireline Telecommunications services to Franchisee's customers or the use by Colocators of Facilities pursuant to Section 28.

Party or Parties. The County and Franchisee individually or collectively as the context in this Franchise provides.

Release. The release, leak, deposit, seepage, spill, or escape of any Hazardous Material caused or contributed to by Franchisee or a Contractor.

Road Standards. The King County Road Design and Construction Standards adopted pursuant to

KCC 14.42 and as now or hereafter amended.

Roadside Management Program or RMP. A program developed by Franchisee and accepted by the County to identify Facilities not in compliance with County Road Standards and to remediate same to bring such Facilities into compliance therewith.

Roadside Management Work Plan or RMP Work Plan. An annual remediation plan, including a schedule of work for the coming year to accomplish the RMP.

Roadside Management Work Report or RMP Work Report. An annual report of progress on the remediation work carried out during the previous year under the RMP and the annual RMP Work Plan.

Utility. All persons or public or private organizations of any kind that are subject to the provisions of KCC 6.27, KCC 6.27A, and KCC 14.45 with regard to use of County ROW.

Wireline Telecommunications. The transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, including fiber-optic cable or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission, without change in the form or content of the information or content of the information sent and received. The term shall not include stand-alone minor communications facilities as described in KCC Chapter 21A.27, stand alone "wireless telecommunications facilities" and "wireless minor communications facilities" as described in KCC Chapter 14.45, cable service (as such term is defined in 47 U.S.C. § 522), or open video system (as such term is defined in 47 U.S.C. § 573).

## Section 2: Non-Exclusive Franchise

2.1 The Franchise is granted to Franchisee as a non-exclusive franchise which shall not in any manner prevent or hinder the County from granting to other parties, at other times and under such terms and conditions as the County, in its sole discretion, may deem appropriate, other franchises or similar use rights in any County ROW. Additionally, this Franchise shall in no way prevent, inhibit, or prohibit the County from using any of the County ROW for any County purpose, nor shall this Franchise affect the County's jurisdiction, authority, or power over any County ROW, in whole or in part. The County expressly retains its power to make or perform any and all modifications or relocations reasonably necessary for the County to carry out any County purpose, including but not limited to, the construction, alteration, improvement, repair, operation, maintenance, or removal of County facilities in the County ROW, as well as the power to vacate the County ROW.

2.2 Any work related to any Facilities occurring in the Franchise Area covered by this Franchise shall be performed by Franchisee Parties in a safe and workmanlike manner, in such a way as to minimize interference with the free flow of traffic and the access to adjacent property.

2.3 Franchisee accepts the Franchise Area in an "as is with all faults" basis with any and all patent and latent defects and is not relying on any representation or warranties, express or implied,

of any kind whatsoever from the County as to any matters concerning the Franchise Area, including, but not limited to, the physical condition of the Franchise Area; zoning status; presence and location of existing facilities; operating history; compliance of the Franchise Area with Environmental Laws or other Laws and other requirements applicable to the Franchise Area; the presence of any Hazardous Materials or wetlands, asbestos, or other environmental conditions in, on, under, over, or in proximity to the Franchise Area; the condition or existence of any of the above ground or underground structures or improvements in, on, over, or under the Franchise Area; the condition of title to the County ROW, and the leases, easements, franchises, orders, licenses, or other agreements, affecting the Franchise Area (collectively, the “Condition of the Franchise Area”).

The County hereby disclaims any representation or warranty, whether expressed or implied, as to the design or Condition of the Franchise Area, its merchantability or fitness for any particular purpose, the quality of the material or the workmanship of the Franchise Area, or the conformity of any part of the Franchise Area to its intended uses. King County shall not be responsible to any Franchisee Party for any damages to any of them relating to the design, condition, quality, safety, merchantability, or fitness for any particular purpose of any part of the Franchise Area, or the conformity of any such property to its intended uses, as of the Effective Date of this Franchise. Franchisee shall notify its Contractors of King County’s disclaimer. Franchisee represents and warrants to King County that neither Franchisee nor any Contractor has relied and will not rely on, and King County is not liable for or bound by, any warranties, guaranties, statements, representations, or information pertaining to the Condition of the Franchise Area or relating thereto made or furnished by King County, or any agent representing or purporting to represent King County, to whomever made or given, directly or indirectly, orally or in writing.

### Section 3. Term

3.1 The initial term of this Franchise is for a period of ten (10) years (the "Initial Term") from the Effective Date, unless earlier terminated or revoked.

3.2 Franchisee may request an extension of the Initial Term, and the Director and Chief Information Officer of the Department of Information Technology, on behalf of the County, may extend the Initial Term of this Franchise for an additional period of up to fifteen (15) years, under the following circumstances:

- (A) Franchisee’s request to extend the Initial Term must be in writing and submitted to the County not more than two (2) years nor less than two hundred forty(240) days prior to the expiration of the Initial Term, and
- (B) Franchisee has maintained substantial compliance with the terms and conditions of this Franchise throughout the Initial Term. The Director and Chief Information Officer of the Department of Information Technology shall have final authority to determine Franchisee’s substantial compliance with the terms and conditions of this Franchise, provided that any such determination be made on an objective, non-discriminatory basis and based on record evidence fully disclosed to Franchisee.

3.3. The Initial Term will not be extended under this Section 3. unless Franchisee receives approval of an extension and the length of the extension in writing from the County within ninety (90) days of the County's receipt of Franchisee's request to extend.

3.4 If the Initial Term is not extended, and Franchisee wishes to continue to operate in the Franchise Area, Franchisee shall promptly file an application with the County for renewal of this Franchise in accordance with KCC 6.27.054. Upon receipt of such application, the County and Franchisee shall commence good faith negotiations on the terms and conditions of a franchise renewal.

If the Parties are unable to reach agreement to renew this Franchise prior to expiration of the Initial Term, then this Franchise will expire at the end of the Initial Term and Franchisee will be considered an unfranchised Utility under KCC Chapter 14.44. If Franchisee continues to use the Franchise Area for Facilities after the expiration of the Franchise, Franchisee's continued use shall be subject to the terms and conditions of the expired Franchise, including Consideration, and at the will of the County ("Holdover Period"). Said use will not constitute a renewal or extension of the Franchise and will be subject to termination by the County in its sole and absolute discretion upon sixty (60) days' written notice to Franchisee.

#### Section 4. County Ordinances and Regulations - Reservation of Police Power

Nothing in this Franchise shall be deemed a waiver of the County's right to exercise its police power to protect the health, safety and welfare of the public, and the County reserves all such powers.

#### Section 5. Eminent Domain

The Facilities are subject to the power of eminent domain in accordance with and subject to Laws. In any proceeding under eminent domain, the Franchise itself shall have no value.

#### Section 6. Survival

6.1 Until such time as all Facilities have been removed from the County ROW, all of the provisions, conditions, and requirements contained in the following Sections of this Franchise shall survive the expiration, revocation, forfeiture, or termination of the Franchise and any Holdover Period: (A) Section 7 (Governing Law, Stipulation of Venue, and Non-Discrimination); (B) Section 14 (Default, Revocation, and Termination); (C) Section 15 (Disputes; Remedies to Enforce Compliance; No Waiver); (D) Section 16 (Consideration and Reservation of Rights); (E) Section 18 (Hold Harmless and Indemnification); (F) Section 19 (Franchise Administration); (G) Section 20 (Insurance Requirements); (H) Section 21 (Performance Bond); (I) Section 22 (Right-of-Way Construction Permit Required); (J) Section 23 (Emergency Work); (K) Section 24 (Compliance with Laws; Performance Standards); (L) Section 25 (Restoration of County ROW); (M) Section 26 (Maps and Records); (N) Section 27 (Relocation of Facilities); (O) Section 28 (Use of Facilities by Colocators); (P) Section 30 (Hazardous Materials); (Q) Section 31 (Dangerous Conditions; Authority for County to Abate); and (R) Section 32 (Decommissioning of Facilities).

6.2 After such time as all Facilities have been removed or decommissioned in place to the County's satisfaction, only the following provisions shall survive the expiration, revocation, or

termination of the Franchise, including any Holdover Period: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

6.3 The following provisions shall survive and apply to any area removed from the coverage of the Franchise as the result of events including, but not limited to, full or partial termination of the Franchise, annexation or incorporation under Section 12, and reduction of the Franchise Area under Section 13: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

#### Section 7. Governing Law, Stipulation of Venue, and Non-Discrimination

7.1 This Franchise and all use of the Franchise Area granted herein shall be governed by the laws of the State of Washington without giving effect to its choice of law rules or conflicts of law provisions, unless preempted by federal law. Any action relating to the Franchise shall be brought in King County Superior Court, King County, Washington, or in the case of a federal action, in the United States District Court for the Western District of Washington at Seattle, unless an administrative agency has primary jurisdiction.

7.2 Nondiscrimination: Franchisee, its successors, and assigns, shall not discriminate on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression, status as a family caregiver, military status or status as a veteran who was honorably discharged or who was discharged solely as a result of the person's sexual orientation or gender identity or expression, or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the employment or application for employment or in the administration or delivery of services or any other benefits under King County Code Chapter 12.16, as now codified and as hereafter amended. Franchisee shall comply fully with all applicable federal, state, and local Laws, ordinances, executive orders, and regulations that prohibit such discrimination. These Laws include, but are not limited to, King County Charter Section 840, RCW chapter 49.60, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a Default by Franchisee of this Franchise and shall be grounds for revocation, termination, or suspension, in whole or in part, of the Franchise and may result in ineligibility for further agreements with the County.

#### Section 8. Severability

If any Section, sentence, clause, phrase, or provision of this Franchise or the application of such provision to any person or entity should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause, phrase, or provision of this Franchise, nor the application of the provision at issue to any other person or entity.

#### Section 9. Notice and Emergency Contact

9.1 Wherever in this Franchise written notices are to be given or made, they shall be sent by electronic mail ("email") with delivery receipt requested, unless otherwise required by Laws or for service of legal process. The Parties agree to receive notices at the addresses listed below unless different addresses shall be designated in writing and delivered to the other Party. Notices shall be deemed to have been delivered according to Section 9.2.

**KING COUNTY:**

King County Office of Information Technology  
Attn: King County Office of Cable Communications  
King County Chinook Building  
401 Fifth Avenue Suite 600  
Seattle, Washington 98104  
Email: [cableoffice@kingcounty.gov](mailto:cableoffice@kingcounty.gov)  
Phone: (206) 263-7880

**With a mandatory electronic copy to:**

King County Facilities Management Division  
Email: [Franchise.FMD@KingCounty.gov](mailto:Franchise.FMD@KingCounty.gov)

**HyperFiber of Washington, LLC**  
6000 Fairview Rd., Suite 300, Charlotte, NC 28210  
Attn: Lance van der Spuy, President

And a copy sent to:

**HyperFiber of Washington, LLC**  
822 Montgomery Ave., Suite 210  
Narberth, PA 19072  
Attn: Joshua Runyan, Esq.  
Ph: (704) 989-3217  
Email: [Josh@ripplefiber.com](mailto:Josh@ripplefiber.com)

9.2 If a notice or communication is given by email, the notice or communication shall be deemed to have been given and received when sent. If a notice or communication is given by certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid and return receipt requested. If a notice or communication is given by courier or personal service, it shall be deemed to have been given when delivered to and received by the Party to whom it is addressed, with the sending Party responsible to confirm delivery of such notice and to provide proof of such service if requested by the receiving Party. If a Party disputes the delivery or receipt of a notice or communication, then that Party shall bear the evidentiary burden to prove, by a preponderance of the evidence, that such notice or communication was not delivered or received or both.

9.3 Franchisee shall also provide the County a current emergency contact name (or title) and phone number available twenty-four (24) hours a day, seven (7) days a week. Franchisee shall promptly notify the County of any change in the notice address or emergency contact (or title) and phone number.

Section 10. Tariffs, Notice of Changes [Intentionally Deleted - Not Applicable]

## Section 11. Amendment

This Franchise may be amended only by written agreement of the Parties, provided that, except as otherwise provided in this Franchise, such amendment shall be subject to approval by the County Council. The Director and Chief Information Officer of the Department of Information Technology is authorized to execute the following amendments on behalf of the County without prior County Council approval: changes to the Franchise Area, extension of this Franchise under Section 3.2 (Term), agreements under Section 16 (Consideration and Reservation of Rights), adjustments under Section 20 (Insurance Requirements), and minor technical corrections or updates. All other amendments to this Franchise shall be subject to County Council approval.

## Section 12. Incorporation and Annexation

If the Franchise Area covered by this Franchise is incorporated into the limits of any city or town by operation of municipal incorporation or annexation, the Franchise granted herein shall terminate as to that portion of the Franchise Area that is incorporated or annexed into the corporate limits of such city or town; but this Franchise shall continue as to those portions of the Franchise Area that are not incorporated into a city or town. The County shall not be liable to Franchisee for any damages, loss, costs, or other impacts that may arise out of or relate to such annexation or incorporation.

## Section 13. Vacation

13.1 Subject to Section 13.2, if all or any portion of a County ROW which is subject to this Franchise is vacated by the County, then this Franchise shall terminate with respect to the vacated portion of such County ROW. The County shall not be liable for any damages or loss to Franchisee by reason of such vacation and termination.

13.2 Whenever a County ROW or any portion thereof is vacated, the County may retain an easement in the vacated portion for the construction, repair and maintenance of public utilities and services which at the time of the vacation are specifically authorized or are physically located upon, over, under, across, or through a portion of the County ROW being vacated, but only in accordance with the provisions of RCW 36.87.140 as now existing or hereafter amended. In the event of any such vacation, the County shall notify Franchisee at least sixty (60) days prior to taking final action. Should Franchisee desire the County to retain a utility easement in the vacated County ROW, Franchisee may request that the County retain such an easement over the property at issue as a part of any proposed action taken by the County Council on the particular vacation. Should Franchisee make such a request, the County may retain said easement in the manner and to the extent allowed by law.

## Section 14. Default, Revocation, and Termination

14.1 If Franchisee Defaults on any term or condition of this Franchise, the County may revoke or terminate the Franchise as provided in this Section 14 or pursue any remedy in equity or under Laws. Upon revocation or termination, all rights of the Franchisee granted by this Franchise shall cease, and the County may suspend or withdraw approval of any active ROW construction permits.

14.2 A Party asserting a Default shall give the other Party written notice of such Default, stating with specificity the events or circumstances and nature of the alleged Default. The Party receiving such notice shall have forty-five (45) days following receipt to: (1) cure the Default; or (2) demonstrate to the other Party's satisfaction that a Default does not or no longer exists; or (3) submit a plan satisfactory to the other Party to correct the Default within a reasonable time. If, at the end of the forty-five (45) day cure period, the non-defaulting Party reasonably believes that the Default is continuing and the Party allegedly in Default is not taking satisfactory corrective action to cure or correct the Default, then the non-defaulting Party may invoke any of the remedies available under this Franchise, in equity, or under Laws.

14.3 The County may, in its discretion, provide additional opportunity for Franchisee to remedy the Default and come into compliance with this Franchise so to avoid revocation or termination.

14.4 During any period in which Franchisee is in Default the County may suspend, withdraw, or decline to issue any ROW construction permits to Franchisee.

14.5 If the County, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate an Emergency or any substantial and imminent risk to public health, welfare, or safety or imminent and substantial damage to the County ROW or adjacent properties, then the County may pursue any remedies under this Franchise, in equity, or under Laws without prior notice of Default to Franchisee and without waiting for the Default cure period to expire.

14.6 If this Franchise is revoked or terminated for any reason, the County may satisfy any remaining financial obligations of Franchisee by utilizing any funds available under the performance bond required in Section 21 (Performance Bond).

#### Section 15. Disputes: Remedies to Enforce Compliance; No Waiver

15.1 If a dispute under this Franchise other than a Default arising under Section 14 (Default, Revocation, and Termination) arises between the County and Franchisee, it shall first be referred to the representatives that have been designated by the County and Franchisee to have oversight over the administration of this Franchise. The officers or representatives shall meet within a reasonable time not longer than thirty (30) calendar days of either Party's request for a meeting, whichever request is first, and the Parties shall make a good-faith effort to achieve resolution of the dispute. If the Parties' representatives are unable to resolve the dispute during their initial meeting, and unless further negotiations are agreed upon by the Parties, the dispute shall be referred to mediation. The Parties shall mutually select a mediator to assist them in resolving their differences. If the Parties cannot mutually select a mediator, then the County shall provide Franchisee a list of three mediators and Franchisee shall select one from the list. Any reasonable expenses incidental to mediation shall be borne equally by the Parties, provided that each Party shall bear its own legal expenses unless the mediation results in a different allocation.

If mediation fails to resolve the dispute within thirty (30) days after the matter is eligible for submission to mediation, then either Party may then pursue any remedy under this Franchise, in equity, or under Laws, provided that if the Party seeking judicial redress does not substantially

prevail in the judicial action, then it shall pay the other Party's reasonable legal fees and costs incurred in the judicial action.

15.2 Failure of the County or Franchisee to exercise any rights or remedies under this Franchise shall not constitute a waiver of any such right or remedy and shall not prevent the County or Franchisee from pursuing such right or remedy at any future time.

15.3 If the County reasonably determines that circumstances require immediate action to prevent or mitigate imminent and substantial damage or injury, then it may immediately pursue any remedy available at law or in equity without having to follow the dispute resolution procedures in this Section 15.

15.4 In addition to judicial enforcement and any remedies under this Franchise, in equity, and Laws, the Manager of the Real Estate Services Section and the Director of the Road Services Division are authorized to enforce this Franchise in accordance with the enforcement and penalty provisions of KCC Title 23.

## **CONSIDERATION AND RESERVATION RIGHTS**

### Section 16. Consideration and Reservation of Rights

16.1 Unless otherwise precluded by federal or state law, and in no case exceeding limits prescribed by applicable federal and/or state law, Franchisee agrees that the County has reserved its right to receive compensation or other consideration ("Consideration"), and which Consideration will be in exchange for the Franchisee's right to use and occupy the County ROW and Franchise Area. The Parties agree that the County shall exercise this right by providing Franchisee with written notice to commence negotiations to amend this Franchise, which notice will describe the proposed Consideration. Within thirty (30) days from the receipt of notice from the County, the Parties shall engage in good faith negotiations for a period of sixty (60) days thereafter, in an effort to reach agreement on the amount, type, and terms of the Consideration. The sixty (60) day period for negotiations may be extended by mutual written agreement of the Parties.

16.2 If the Parties agree on the amount, type, and terms of the Consideration, then they shall amend this Franchise in accordance with Section 11; provided, however that the Director and Chief Information Officer of the Department of Information Technology is authorized on behalf of the County to execute any such amendment. If the Parties are unable to agree on the amount, type, and terms of the Consideration during the sixty (60) day negotiation period (as may be extended by mutual agreement), the County may declare such failure to agree to be an event of Default to be resolved in accordance with Section 14.2.

16.3 No Consideration payment or acceptance of any payment made shall be construed as an accord by either Party that the amount paid is in fact the correct amount, nor shall any payment or acceptance of payment be construed as a release of any claim either Party may have for further reimbursement or additional sums payable or for the performance of any other obligation under the Franchise.

16.4 Separate from the Consideration that is the subject of Section 16.1, the County reserves for itself the right to impose a Utility tax on Franchisee, if such taxing authority is granted by the State of Washington.

16.5 Separate from the Consideration that is the subject of Section 16.1, Franchisee shall pay all applicable fees as specified in King County Code to cover the County's costs in drafting, processing, and administering this Franchise and all work related thereto.

16.6 If Franchisee allows Colocators to use Facilities in the Franchise Area, then Franchisee shall make an annual revenue-sharing payment to the County in the amount of ten percent (10%) of the total amount of Franchisee's Gross Revenues derived from Colocator's use of Facilities ("Revenue-Sharing Payment"). Payment shall be made to the County on a quarterly basis, which shall be due and payable no later than thirty (30) days after the end of each calendar quarter, and shall include a summary of the financial information used to calculate the payment.

16.7 If this Franchise terminates for any reason, or if Franchisee fails to satisfy such financial obligations within forty-five (45) days following receipt of written notice describing such financial obligations together with reasonable documentation evidencing such obligations, the County reserves the right to satisfy any remaining financial obligations of Franchisee by utilizing any funds available under any performance bond required in Section 21.

16.8 In exchange for the valuable property right herein granted to Franchisee to occupy and use the County ROW, the Parties may contract for Franchisee to provide the County with reasonable in-kind services and facilities, including duct, conduit, fiber optic cable, appurtenances, or other related structures necessary for the County to access and use the County facilities for public use and benefit. Additionally, when the Franchisee is constructing, relocating, or placing Wireline Telecommunications Facilities in the County ROW, the Franchisee may, upon request of the County and as agreed by the Parties, voluntarily provide additional ducts, conduits, fiber optic cable, appurtenances, or other in-kind facilities or services, as necessary for the County to provide services for the benefit of the public.

## **FACILITY OWNERSHIP AND USE**

### Section 17. Transfer and Assignment

17.1 This Franchise may not be transferred, assigned, leased, sold, partitioned, disposed of, or otherwise subject to a change in the identity of Franchisee (each such activity, a "Transfer") in whole or in part, in any manner, without the prior written legislative approval of the County Council. If a Transfer of the Franchise is approved by the County Council, the transferee must agree to be bound by each and every provision, condition, regulation, and requirement contained in this Franchise and Franchisee shall not be relieved of any duty or obligation under this Franchise until a complete and sufficient Transfer instrument is approved and executed by the County.

17.2 In the case of an assignment of this Franchise to secure indebtedness, whether by mortgage or other security instrument, the County's consent shall not be required unless and until the secured

party elects to realize upon the collateral. Franchisee shall provide prompt, written notice to the County of any assignment to secure indebtedness.

17.3 In the event Franchisee desires to transfer ownership of Facilities, such transfer shall be arranged and accomplished consistent with a written agreement between the County and the transferee, binding the transferee to compliance with all terms and conditions applicable to the transferee's use and occupancy of the County ROW. Facilities that are out of compliance with the Road Standards may not be transferred unless and until they are brought into compliance.

17.4 Transfer of the Franchise or Facilities in violation of this Section 17 shall constitute a Default.

## **INDEMNIFICATION, LIABILITY, AND INSURANCE**

### Section 18. Hold Harmless and Indemnification

18.1 Franchisee agrees to release, indemnify, defend (at the County's option and using counsel reasonably acceptable to the County), and hold harmless all County Parties from and against any and all claims, demands, liability, suits, and judgments, including costs of defense thereof, awards, penalties, fines, costs, government orders, or other requirements, (collectively, "Claims") to the extent caused by, arising out of, incidental to, or related to the acts or omissions of Franchisee Parties or Contractors in connection with Franchisee's exercise of rights and obligations under this Franchise. This covenant of release and indemnification shall include, but not be limited to: any and all Claims arising out of the placement of Facilities; any failure by Franchisee Parties or a Contractor to complete all related Construction, Maintenance, Operations, or any work or other activities in accordance with this Franchise; and fire suppression activities during fire events. In the event it is determined that RCW 4.24.115 applies to this Franchise, Franchisee agrees to defend, hold harmless, and indemnify all County Parties to the maximum extent permitted thereunder. Provided, however, that if a Claim arises out of or relates to the concurrent negligence of the Parties, then Franchisee's duties under this Section 18.1 shall apply only to the extent of the negligence of Franchisee Parties and Contractors. This Section 18.1 shall not apply to any Claim or other matters arising out of or related to any Release of Hazardous Materials, which Releases are addressed under Section 30 of this Franchise.

18.2 In the event any County Party incurs reasonable attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 18 against Franchisee, all such fees, expenses, and costs shall be recoverable from Franchisee. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

18.3 Franchisee's obligations described in 18.1 above include the duty to defend and indemnify all County Parties from any claims, demands, or suits brought by, or on behalf of, any employee, former employee, or agent of Franchisee, or any Contractor. To the extent necessary to carry out this obligation, Franchisee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects County Parties only, under any industrial insurance act or workers' compensation law, including without limitation RCW Title 51, other workers' compensation act,

disability act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. The Parties acknowledge that this provision was mutually negotiated.

18.4 Franchisee's covenants and indemnifications provided in this Section 18 shall extend to the period of time during which Franchisee occupied the Franchise Area in a Holdover Period after expiration of the term of any preceding franchise.

18.5 The County shall give Franchisee timely written notice of any Claim covered by Franchisee's obligations under this Section 18. In the event any such Claim arises, the County or any other indemnified party shall tender the defense thereof to Franchisee and Franchisee shall have the right and duty to defend, settle, or compromise any Claim, and the County shall cooperate fully with Franchisee, provided: (A) any settlement or compromise is consistent with the terms of this Franchise; and (B) any terms or conditions of a settlement, other than the payment of money damages, that in any way obligate or affect the County shall require the County's prior approval.

18.6 The County's permitting, approval, inspection, lack of inspection, or acceptance or rejection of any Construction, Maintenance, Operations, or any work or other activities associated with this Franchise, whether pursuant to this Franchise or pursuant to any other permit or approval issued by the County in connection with Franchisee's exercise of its rights under this Franchise, shall not relieve Franchisee of any of the indemnification, defense, and hold harmless obligations contained in this Section 18.

#### Section 19. Franchise Administration

The County's administration of this Franchise shall not be construed to create a basis for any liability on the part of County Parties.

#### Section 20. Insurance Requirements

20.1 Franchisee shall procure and maintain for the duration of this Franchise (the Initial Term and any extensions of the Initial Term) and any Holdover Period thereafter, insurance against claims for injuries to persons or damage to property which may arise from, or in connection with any Construction, Maintenance, Operations, and any work or other activities contemplated by Franchisee or Contractor. Upon request of the County, Franchisee shall furnish separate certificates of insurance and policy endorsements from each Contractor as evidence of compliance with the insurance requirements of this Franchise.

20.2 Franchisee is responsible for ensuring compliance with all the insurance requirements stated herein. Failure by Franchisee or a Contractor to comply with the insurance requirements stated herein shall constitute a Default of this Franchise.

20.3 Each insurance policy shall be written on an "occurrence" basis/form; excepting insurance for professional liability (errors and omissions) and/or pollution liability. Professional liability (errors and omissions) or pollution liability required by this Franchise is acceptable on a "claims made" basis/form. If any insurance required under this Franchise is purchased on a "claims made" basis/form, the coverage provided under that insurance shall be maintained through:

(i) consecutive policy renewals for not less than three (3) years from the date of completion of the Construction, Maintenance, Operations, and any work or other activities associated with this Franchise or, if such renewals are unavailable, (ii) the purchase of a tail/extended reporting period for not less than three (3) years from the date of completion of the Construction, Maintenance, Operations, and any work or other activities associated with this Franchise. All insurance written on a “claims made” basis/form must have its policy inception or retroactive date be no later than the Effective Date of the Franchise, unless otherwise approved in writing by the County’s Risk Management Office.

20.4 Nothing contained within these insurance requirements shall be deemed to limit the scope, application, and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Franchise.

20.5 **Risk Assessment by Franchisee:** By requiring such minimum insurance, the County does not and shall not be deemed or construed to have assessed the risks that may be applicable to Franchisee or a Contractor under this Franchise, or in any way limit County’s potential recovery to insurance limits required hereunder. To the contrary, this Franchise’s insurance requirements may not in any way be construed as limiting any potential liability to the County or the County’s potential recovery from Franchisee or a Contractor. Franchisee and its Contractor(s) shall assess their own risks and if they deem appropriate and/or prudent, maintain greater limits and/or broader coverage.

20.6 **Minimum Scope and Limits of Insurance**

Coverage shall be at least as broad as and with limits not less than the following:

(A) General Liability:

\$5,000,000 per occurrence and \$5,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, products- completed operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability:

\$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 0 1 covering business auto coverage, symbol 1 “any auto”; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Pollution Liability:

Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead or PCBs are a potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(D) Workers Compensation:

Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law, or the statutory requirements of the state of residency.

(E) Employers Liability or "Stop Gap":

Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

**20.7 Minimum Limits of Insurance - Construction Period:** Prior to commencement of Construction and until Construction is complete and approved by the Parties, Franchisee shall cause its Contractor(s) to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Franchise. Franchisee, the County, and the County's elected and appointed officials, employees, and agents shall be named as additional insured, for full coverage and policy limits, on liability policies except Workers' Compensation and Professional Liability.

The County is not responsible for payment of the cost of such insurance. Franchisee's Contractor(s) shall maintain coverage and limits no less than the following:

(A) Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, Products-Completed Operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 01 covering business auto coverage, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Professional Liability (Errors & Omissions): In the event that services delivered pursuant to this Franchise either directly or indirectly involve or require professional services, Professional Liability (Errors & Omissions) coverage shall be provided with minimum limits of \$1,000,000, per claim and in the aggregate.

(D) Contractor's Pollution Liability Coverage: Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead, or PCBs are a potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(E) Workers' Compensation: Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law, or the statutory requirements of the state of residency.

(F) Employers Liability or "Stop Gap": Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

**20.8 Deductibles and Self-Insured Retentions:** Any deductible and/or self-insured retention of the policy(s) shall not in any way limit County's right to coverage under the required insurance, or to Franchisee's or any Contractor's liability to the County, and shall in all instances be the sole responsibility of Franchisee and its Contractor(s), even if no claim has actually been made or asserted against Franchisee or Contractor(s).

**20.9 Other Insurance Provisions:** The insurance policies required in this Franchise shall contain, or be endorsed to contain, the following provisions:

(A) All Liability Policies except Professional Liability (Errors and Omissions) and Workers Compensation.

1. The County and its elected and appointed officials, agents, and employees shall be covered as additional insured, for full coverage and policy limits, as respects liability arising out of ongoing and completed work, or other activities performed by or on behalf of Franchisee or its agents, representatives, employees, or Contractor(s) in connection with this Franchise. Additional insured status shall include Products-Completed Operations.

(B) With respect to all liability policies (except Workers Compensation):

1. Coverage shall be primary insurance as respects the County, its officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officials, employees, or agents shall not contribute with the Franchisee's or any Contractor's insurance or benefit the Franchisee or Contractor, or their respective insurers in any way.

2. Insurance shall expressly state that it applies separately to each insured and additional insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(C) **All Policies:** Coverage shall not be suspended, voided, canceled, or materially changed until after thirty (30) days' prior written notice has been given to the County. In the event of said cancellation or intent not to renew, Franchisee shall obtain and furnish to the County evidence of replacement insurance policies meeting the requirements of this Section 20 by the cancellation date. Failure to provide proof of insurance could result in revocation or termination of the Franchise.

**20.10 Acceptability of Insurers:** Unless otherwise approved by the County, insurance is to be placed with insurers with an A.M. Best rating of no less than A:VII, or, if not rated with A.M. Best, with minimum surpluses the equivalent of A.M. Best surplus size VIII. Professional Liability, Errors, and Omissions insurance may be placed with insurers with an A.M. Best rating of B:VII. Any exception must be approved by the County's Office of Risk Management Services. If, at any time, the foregoing policies shall fail to meet the above requirements, Franchisee shall promptly obtain a new policy, and shall submit the same, with appropriate certificates and endorsements, to the County.

**20.11 Verification of Coverage:** Prior to the execution of this Franchise, Franchisee shall furnish the County with certificates of insurance and endorsements certifying the issuance of all insurance required by this Franchise. All evidence of insurance shall be signed by a properly authorized officer, agent, general agent or qualified representative of the insurer(s), shall set forth the name of the insured(s), the type and amount of insurance, the location and operations to which the insurance applies, the inception and expiration dates, and shall specify the form number of any endorsements issued to satisfy this Franchise's insurance requirements.

Upon request of the County, and within five (5) business days, Franchisee must provide copies of any renewal certificates of insurance and endorsements. In the event of a claim, Franchisee must provide complete copies of all required insurance policies, which may be redacted of confidential or proprietary information.

The County's receipt or acceptance of Franchisee's or its Contractor's evidence of insurance at any time without comment or objection, or the County's failure to request certified copies of such insurance, does not waive, alter, modify, or invalidate any of the insurance requirements set forth in this Section 20 or, consequently, constitute County's acceptance of the adequacy of Franchisee's or any Contractor's insurance or preclude or prevent any action by County against Franchisee for breach of the requirements of this Section 20.

**20.12 Contractors:** Franchisee shall include all Contractors as insured under its policies or, alternatively, Franchisee must require each of its Contractors to procure and maintain appropriate and reasonable insurance coverage and insurance limits to cover each of the Contractor's liabilities given the scope of work and the services being provided herein. All liability insurance policies (except Professional Liability and Workers Compensation) provided by the Contractor(s) must name the County and its elected and appointed officials, employees, and agents as additional insured, for full coverage and policy limits. Franchisee is obligated to require and verify that all Contractors maintain insurance and ensure that the County is covered as additional insured. Upon

request by the County, and within five (5) business days, Franchisee must provide evidence of Contractor(s) Insurance coverage (including endorsements).

**20.13 Insurance Review:** In consideration of the duration of this Franchise, the Parties agree that the Insurance Section herein, at the discretion of the County Risk Manager, may be reviewed and reasonably adjusted with each amendment and within ninety (90) days of the end of the first five (5) year period of the term of this Franchise and the end of each successive five (5) year period thereafter. Any adjustments made as determined by the County Risk Manager, shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of Franchisee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

20.14 Franchisee shall furnish the County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of Franchisee or its Contractor(s) before commencement of any Construction, Maintenance, Operations, or any work or any other activities associated with this Franchise.

20.15 In satisfaction of the insurance requirements set forth in this Section 20, Franchisee may maintain a fully-funded self-insurance program for its liability exposures in this Franchise, which is consistent with good utility practice. Franchisee agrees to provide the County with at least thirty (30) days' prior written notice of any material change in Franchisee's self-funded insurance program and will provide a letter of self-insurance as adequate proof of coverage. If Franchisee decides to no longer maintain a self-insurance program for its liabilities, Franchisee must promptly notify the County and provide certificates of insurance and corresponding endorsements evidencing the insurance requirements in this Franchise have been satisfied.

#### Section 21. Performance Bond

If the County deems as necessary, the Franchisee shall, on or before the Effective Date of this Franchise, or during the term of this Franchise [if a performance bond was not previously required], furnish a bond executed by Franchisee with a corporate surety authorized to do surety business in the State of Washington, with an AM Best's rating of an A: XII in the amount determined suitable by the County to ensure the faithful performance of Franchisee's obligations under this Franchise. The bond shall stipulate that Franchisee shall comply with all of Franchisee's obligations under this Franchise. Franchisee shall pay all premiums or costs associated with maintaining the performance bond and shall keep the same in full force and effect at all times during the term of this Franchise and any extension thereof. If Franchisee fails to provide or maintain the bond, then the County may require Franchisee to substitute an equivalent cash deposit in lieu of the bond. With written notice the County, in its sole discretion, may allow Franchisee to cancel this performance bond. Nothing in this agreement shall compel the County to cancel this bond.

## WORKING IN THE RIGHT OF WAY

### Section 22. Right-of-Way Construction Permit Required

22.1 Franchisee Parties shall not commence any Construction or Maintenance work within the Franchise Area until an applicable construction permit authorizing such work has been issued pursuant to KCC 14.44, except as provided in Section 23 of this Franchise. Applications for construction permits shall be presented to the King County Real Estate Services Section (“RES”) along with such detailed design and Construction plans and documents, studies, and reports as are required by RES. Franchisee shall provide a bond if required by the County (in a form approved by the County) prior to permit issuance. Any bond(s) required under this Section 22 shall be separate from any performance bond required under Section 21.

22.2 Any and all work performed by Franchisee Parties or on behalf of Franchisee pursuant to this Franchise shall be performed in accordance with all County standards applicable at the time of such work, including but not limited to the King County Comprehensive Plan, the King County Regulations for Accommodation of Public Utilities on County ROW, the Road Standards, the County approved plans and specifications for the work, and the terms and conditions of any ROW construction permit and other permits or approvals required under the King County Code. All Facilities and all Construction or Maintenance shall be the responsibility of Franchisee and the County hereby disclaims any duty or obligation regarding the same. All permits for Construction or Maintenance shall be applied for and issued in the name of Franchisee, and Franchisee shall be responsible for all work done under the permit, regardless of who performs the work.

22.3 Franchisee Parties and Contractors shall comply with any and all conditions contained in applicable permits or approvals.

### Section 23. Emergency Work

23.1. If Facilities become damaged or nonoperational such that an Emergency is presented, or if Franchisee or any Contractor carries out Construction or Maintenance in a manner that creates an Emergency, then Franchisee shall immediately take such measures as are reasonably necessary to repair the Facilities at issue or to remedy the Emergency. In the event of an Emergency as described above, Franchisee may take corrective action immediately, without first applying for or obtaining an ROW construction permit. However, the need to take immediate corrective action shall not relieve Franchisee from its obligation to notify the County and to obtain an ROW construction permit or any other permits necessary for the corrective actions. In the event of any Emergency, whether described in this Section 23 or otherwise, Franchisee shall, upon discovery of the Emergency, immediately notify the County of the Emergency via email to both the Road Services Division ([KCUIU@kingcounty.gov](mailto:KCUIU@kingcounty.gov)) and the Real Estate Services Section ([Res.permits@kingcounty.gov](mailto:Res.permits@kingcounty.gov)), with a copy to the KCIT Cable Office ([CableOffice@kingcounty.gov](mailto:CableOffice@kingcounty.gov)). ROW construction permit applications must be submitted as soon as reasonably feasible, yet no later than one (1) full working day after Franchisee discovers the Emergency. In the event of a dispute, Franchisee shall bear the burden to prove (i) that the County received such notice and (ii) when the County received such notice.

23.2 If the County discovers or is alerted by a third party of an Emergency involving the Facilities, the County will first make a good faith effort, considering the urgency of the circumstances, to contact Franchisee to allow Franchisee to remedy the Emergency. If the County

is unable to contact Franchisee or Franchisee is unable to remedy the Emergency in a timely manner, the County may take corrective action, and Franchisee shall reimburse the County for any and all documented direct costs and expenses incurred by the County. Such costs and expenses shall include, but not be limited to Franchisee's proportionate share of the costs of County personnel assigned to review emergency corrective action plans or to oversee or engage in any corrective action as a result of the Emergency.

#### Section 24. Compliance with Laws; Performance Standards

24.1 Franchisee Parties shall at all times comply with all Laws including Environmental Laws, any applicable Washington Utilities and Transportation Committee (“WUTC”) settlement agreements, and Utility standards including, but not limited to, the County’s Comprehensive Plan, zoning code, and any development regulations that are applicable to any and all work or other activities performed by Franchisee Parties pursuant to or under authority of this Franchise.

24.2 Construction or Maintenance shall not unreasonably impede: (A) public use of the County ROW or associated road(s) for vehicular and pedestrian transportation; (B) construction or maintenance activities by other authorized users of the Franchise Area or County ROW, or access to or use of their facilities; (C) the operation, maintenance, or improvement by the County of any County ROW, or other public property impacted by the Construction or Maintenance; or (D) the use of the Franchise Area or County ROW for other governmental purposes. Construction or Maintenance shall comply with all permit conditions or other requirements.

24.3 During any periods of Construction or Maintenance, Franchisee Parties shall at all times post and maintain proper barricades and comply with all applicable safety regulations as required by Laws, including, but not limited to RCW 39.04.180 for the construction of trench safety systems.

24.4 Before a Franchisee Party commences any work under this Franchise which may disturb any existing monuments or markers relating to subdivisions, plats, roads, or surveys, the Franchisee Party shall have a Washington State Professional Land Surveyor locate and reference all such monuments and markers consistent with RCW 58.09.130 and a permit shall be obtained (if required) from the Washington State Department of Natural Resources prior to the commencement of work pursuant to WAC 332-120. The replacement of all such monuments or markers disturbed by a Franchisee Party shall be the responsibility of Franchisee, at no cost to the County.

24.5 If a Franchisee Party plans to make excavations in the Franchise Area, Franchisee shall, upon receipt of a written request to do so, provide an opportunity for the County and/or other authorized users of the applicable County ROW to participate in such excavation, and shall coordinate such participation with the County or any such other authorized users; provided that, Franchisee need not permit the County or any other party to participate in an excavation if any of the following are true, in the reasonable judgment of the County Road Engineer, in consultation with Franchisee:

- (A) such joint excavation would unreasonably delay the performance of Franchisee’s work; or

- (B) despite good-faith efforts, the parties involved are unable to agree upon reasonable terms and conditions for accomplishing such joint excavation; or
- (C) valid safety reasons exist for denying a request for such joint excavation or installation of proposed facilities of another party would be in conflict with the best practices employed by Franchisee; or
- (D) the excavation is for the purpose of an Emergency consistent with Section 23 of this Franchise.

24.6 Franchisee shall maintain all Facilities in a good state of repair. Franchisee shall, at no expense to the County, promptly repair Facilities, including all appurtenant facilities and service lines connecting Franchisee's system to users, if the repair is required by the County for any reasonable purpose.

24.7 Franchisee shall maintain a reasonably clear area, not less than five (5) feet, around all Facilities permitted and installed above ground so they will be clearly visible for purposes of County operations and maintenance. If Franchisee intends to use chemical sprays to control or kill weeds and brush, then Franchisee must first obtain an ROW construction permit. The County may limit or restrict the types, amounts, and timing of application if a significant negative impact on the aesthetics or environment of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility ROW maintenance and the King County Code related to sensitive areas.

#### Section 25. Restoration of the County ROW

Promptly after completing any work within the County ROW, including, but not limited to, any Construction, Franchisee shall, at no cost to the County, restore the surface of the County ROW and any adjacent areas directly affected by a Franchisee Party's work to as good or better condition as such areas were in immediately prior to the commencement of such work, consistent with the County's regulations for accommodation of utilities on county road rights-of-way, adopted in KCC 14.44.060, and any restoration conditions contained in applicable permits or approvals. The County Road Engineer shall have final authority to determine the adequacy of the restoration performed in accordance with the requirements set forth herein.

#### Section 26. Maps and Records

26.1 Franchisee shall maintain accurate records to document activities performed pursuant to this Franchise for six (6) years following the expiration, revocation, or termination of this Franchise, or any Holdover Period, whichever is later. Required records include the following:

- (A) records of Construction, Maintenance, Operation, inspections, and regulatory compliance for all Facilities subject to this Franchise; and,

(B) as-built plans or, when as-built plans are not available, 100% design drawings as modified following construction, maps, GPS charts, and any other records depicting the final locations and conditions of Facilities (“As-Built Plans”).

26.2 The County shall have the right to review such records or to request copies of such records, which Franchisee shall provide at no cost to the County. If a discrepancy is discovered in its As-Built Plans, Franchisee shall update its records to correct the discrepancy. With respect to any excavations within the Franchise Area undertaken by or on behalf of Franchisee or the County, nothing herein is intended (nor shall be construed) to relieve either Party of its obligations under RCW 19.122 with respect to determining the location of utility facilities.

26.3 If Franchisee considers any portion of its records provided to the County to be protected from disclosure under law, Franchisee shall clearly identify any specific information that it claims to be confidential or proprietary and the basis for such claim. If the County receives a request under the Public Records Act, RCW 42.56 (“PRA”), to inspect or copy the information so identified by Franchisee and the County determines that release of the information is required by the PRA or is otherwise appropriate, the County's sole obligations shall be to notify Franchisee in writing (A) of the request and (B) of the date that such information will be released to the requestor unless Franchisee obtains a court order to enjoin disclosure under RCW 42.56.540. The County shall provide Franchisee with such notice at least ten (10) days prior to the date that such information will be released. If Franchisee fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section 26.3 assumes, no obligation on behalf of Franchisee to claim or make any exemption from disclosure under the PRA. The County shall not be liable to Franchisee for releasing records not clearly identified by Franchisee as confidential or proprietary. The County shall not be liable to Franchisee for any records that the County releases in compliance with this Section 26.3 or in compliance with an order of a court of competent jurisdiction.

## Section 27. Relocation of Facilities

27.1 Franchisee shall be responsible, at no expense to the County, to repair, remove, relocate, or adjust all Facilities if such, repair, removal, relocation, or adjustment is required by the County for any purpose.

27.2 If an Emergency requires the relocation of Facilities, the County shall give Franchisee notice of the Emergency as soon as reasonably practicable. Upon receipt of such notice from the County, Franchisee shall respond as soon as reasonably practicable to relocate the affected Facilities.

27.3 Upon request by the County and in order to facilitate the design and construction of any County improvements in the Franchise Area or County ROW, Franchisee shall locate and, if the County deems it reasonably necessary, excavate and expose, at Franchisee’s sole cost and expense, Facilities for inspection by the County; provided that Franchisee shall not be required to excavate and expose Facilities for inspection unless the County Road Engineer reasonably determines that Franchisee's record plans and record drawings are inadequate for the County's planning purposes. The decision to require relocation of any Facilities in order to accommodate County improvements shall be made by the County Road Engineer in their sole and absolute discretion upon review of the location and construction of Facilities.

27.4 In the event a condition or requirement imposed by the County upon any person or entity other than County Parties (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permits for zoning, land use, construction, or development) reasonably necessitates adjustment, modification, relocation, or removal of any Facilities, then Franchisee shall adjust, modify, relocate, or remove such Facilities to accommodate such condition or requirement imposed by the County, at no cost to the County; provided that nothing in this Franchise is intended or shall be construed to prohibit Franchisee from assessing on such other person or entity the costs of adjustment, modification, relocation or removal as a condition of such action pursuant to this Section 27.

27.5 If the County determines that a County capital improvement project necessitates adjustment, modification, relocation, or removal of Facilities, then:

(A) The County shall provide Franchisee reasonable written notice consistent with Section 27.5(B) of this Franchise prior to the commencement of the construction phase of the County project at issue; PROVIDED, that under the following circumstances the County need only provide the Franchisee with written notice as soon as may be reasonably practicable: (a) in the event of an Emergency; (b) in the event of an Emergency beyond the control of the County and which will result in adverse financial consequences to the County; or (c) where the need to relocate the Facilities could not reasonably have been anticipated by the County.

(B) The County shall provide Franchisee with copies of pertinent portions of the plans and specifications for the County project as well as any proposed new location for the Facilities at least ninety (90) days prior to the commencement of the construction phase of the County project to enable Franchisee to promptly relocate such Facilities.

(C) After receipt of such notice and such plans and specifications, unless the Parties agree otherwise, Franchisee shall complete relocation of Facilities within the County ROW at least ten (10) days prior to commencement of the construction phase of the County project at no charge, cost, or expense to the County. In the event of an Emergency, Franchisee shall relocate the Facilities at issue within a time period reasonably specified by the County Road Engineer.

(D) If Franchisee determines that relocation cannot reasonably be completed within the time period provided by the County, Franchisee shall propose a revised schedule to the County for completion of such relocation work. If the County and Franchisee agree upon a schedule to relocate Facilities, Franchisee shall complete the relocation of Facilities in accordance with the agreed upon schedule. If the County and Franchisee are unable to agree upon a relocation schedule, Franchisee shall relocate Facilities according to a schedule reasonably established by the County.

(E) Unless the Parties agree otherwise, if Franchisee fails to complete adjustment, modification, relocation, or removal of Facilities within the time prescribed and to the County's satisfaction, the County may cause such work to be done and bill the cost of the work to Franchisee. Franchisee shall remit payment to the County within thirty (30) days of receipt of an itemized list of associated costs.

(F) Franchisee shall also be responsible for ensuring that all Colocator facilities are relocated contemporaneously with Facilities. If relocation of Facilities, including Colocator facilities is not completed in a timely fashion pursuant to this Section 27.5, Franchisee shall bear any and all relocation and delay costs incurred by the County, except for the duration of a Force Majeure event. Force Majeure shall mean landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, civil disturbances, acts of terrorism, or other similar events which are not reasonably within the control of the Parties.

27.6 When the County or its contractor provides notice to Franchisee, in accordance with RCW Chapter 19.122, of its intent to excavate in the Franchise Area or County ROW, Franchisee shall, at no expense to the County, provide the County or its contractor the best information available from Franchisee's records or, where reasonable, from the use of locating equipment as to the location of Facilities, as well as to the location of facilities connected to its system that are in the Franchise Area and that Franchisee does not own, including appurtenant facilities and service lines connecting its system to users. Franchisee shall mark the surface where surface marking would reasonably be of use in the excavation. If Franchisee fails to make good faith efforts to provide the information required in this Section 27.6 within the deadlines provided by RCW Chapter 19.122, Franchisee shall defend, indemnify, and hold the County harmless for all claims and reasonable costs that result from damage to Facilities or other connected facilities if the damage occurs as a result of Franchisee's failure to provide the information. Nothing in this Section 27.6 is intended or shall be construed to create any rights in any third party or to form the basis for any obligation or liability on the part of the County or Franchisee toward any third party, nor is anything in this Section 27.6 intended or to be construed to alter the rights and responsibilities of the Parties under RCW Chapter 19.122, as amended.

27.7 Nothing in this Franchise shall prevent Franchisee from imposing reasonable terms when responding to a request for relocation of any Facilities by any person or entity other than the County, where the facilities to be constructed by said person or entity are not or will not become County-owned, operated or maintained facilities and the relocation is not subject to the provisions of Section 27.4.

#### Section 28. Use of Facilities by Colocators; Third-Party Facilities

28.1 Franchisee may contract for use of Facilities in the Franchise Area by a Colocator with prior written consent of the County, which consent will not be unreasonably withheld. Use of Facilities by a Colocator shall be conditioned on the following: 1) the Facilities must be in compliance with the Road Standards; and 2) the Colocator must have a valid franchise, ROW Use Agreement, or other County authorization for use of the County ROW. Franchisee shall require any Colocator requesting use of Facilities to provide documentation of County authorization to occupy the County ROW. In the event a Colocator does not provide such documentation, Franchisee shall notify the County of the Colocator's request and shall suspend processing such request until documentation of County authorization is provided. In addition, Franchisee shall be responsible for requiring all Colocators to comply with all applicable provisions of this Franchise. Franchisee shall not allow a third party other than a Colocator to use Facilities.

28.2 Transfer of ownership of any Facilities to a Colocator shall be subject to the County's prior written consent, such consent not to be unreasonably withheld, and a written agreement between the County and the Colocator, binding the Colocator to compliance with all applicable terms and conditions of this Franchise.

28.3 In the event Franchisee allows Colocators to utilize Facilities in the future, then Franchisee shall provide the County with a list of all Colocators using Facilities in the County ROW. Such list shall be submitted to the County annually, by January 31st throughout the term of this Franchise and any extension thereof.

28.4 Transfer of this Franchise or use of Facilities in violation of this Section 28 shall constitute a Default of the Franchise.

28.5 If Franchisee performs work or repairs on Colocator-owned or other third-party-owned facilities located in the County ROW and connected to Franchisee's own Facilities, then Franchisee shall comply with the terms and conditions of this Franchise.

#### Section 29. Roadside Management Program

29.1 Within **ninety (90) days** following the Effective Date, Franchisee shall submit a Roadside Management Assessment ("RMA") to the County which includes an assessment of whether its Facilities are all located underground, or, if some or all of its facilities are located above-ground, and whether the Facilities comply with the Road Standards, including but not limited to Section 5.10, Roadside Obstacles. If, after preparing the RMA, Franchisee concludes that all Facilities are located underground (or, if it has Facilities located above-ground, Franchisee concludes that those Facilities comply with the Road Standards), then Franchisee shall certify this finding in an RMA to the County Road Engineer.

29.2 If after completing an RMA Franchisee concludes that it has above-ground Facilities that are not in compliance with the Road Standards, then Franchisee shall carry out a program acceptable to the County for Franchisee, at its sole cost and expense, to remove or relocate its non-compliant Facilities to bring them into compliance with the Road Standards. Franchisee shall submit a Roadside Management Program to the County within one hundred twenty (120) days following the Effective Date. Once Franchisee's RMP is approved by the County, then Franchisee shall schedule and carry out the RMP in cooperation with the County. Franchisee shall submit an annual Roadside Management Program Work Plan identifying specific remediation project to be accomplished during that year and an annual Roadside Management Program Work Report, showing the progress of remediation projects accomplished during the preceding year. The RMP Work Plan and the RMP Work Report shall both be due to the County by January 31st of every year of this Franchise, until such time that all Facilities identified in the plan have been remediated and brought into compliance with the Road Standards.

29.3 If Franchisee installs or acquires above-ground Facilities at any time after Franchisee has previously certified that all its Facilities were located underground, then Franchisee must immediately update its RMA described in Section 29.1 as to whether the above-ground Facilities comply with the Road Standards and submit the updated RMA to the County Road Engineer. If Franchisee concludes that the above-ground Facilities comply with the Road Standards, then Franchisee shall so certify to the County as required under Section 29.1. If Franchisee determines

that the above-ground Facilities do not comply with the Road Standards, then Franchisee shall carry out a remediation program consistent with Section 29.2.

### Section 30. Hazardous Materials

30.1 Franchisee may use Authorized Hazardous Materials in the Franchise Area; provided that Franchisee's use of Authorized Hazardous Materials in the Franchise Area shall at all times be undertaken in strict compliance with all Environmental Laws. Franchisee and Contractors shall not cause or contribute to a Release, in any manner, through act or omission.

30.2 If a Release occurs or if Franchisee or a Contractor discovers any Hazardous Material(s), then Franchisee shall immediately or as soon thereafter as reasonably possible (but in no event later than the next business day) provide written notice of the Release or Hazardous Material(s) to the County by email to the Real Estate Services Section ([RES.permits@kingcounty.gov](mailto:RES.permits@kingcounty.gov)), and the Road Services Division ([KCUIU@kingcounty.gov](mailto:KCUIU@kingcounty.gov)), with a copy to the KCIT Cable Office ([CableOffice@kingcounty.gov](mailto:CableOffice@kingcounty.gov)), and provide notice to any affected property owner, and if required by Environmental Laws, to the Washington State Department of Ecology and other government entities.

30.3 The County shall not be liable to Franchisee or a Contractor for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with a Release under Franchisee's exercise of this Franchise and Franchisee hereby releases the County from any such claims. Franchisee shall be responsible, at no cost to the County, for promptly remediating any and all Releases within the Franchise Area, during any time period in which Franchisee had Facilities within the Franchise Area. Franchisee is also responsible for remediating any Releases that migrated from the Franchise Area to property outside the Franchise Area. At a minimum, Releases shall be remediated to the applicable cleanup standards under Environmental Laws that will allow for unrestricted use of the Franchise Area, or adjacent property with no environmental covenant or other deed restriction required to be recorded. The County shall review and approve of any remediation plan prior to implementation; however, Franchisee shall be entitled to respond immediately to an Emergency without prior approval from County, including but not limited to taking actions necessary to prevent the Release from migrating, leaching, or otherwise spreading, and taking actions necessary to respond to any immediate obligations imposed on Franchisee by Environmental Laws. Franchisee shall cooperate in any environmental investigations conducted by or at the direction of the County or any state, federal, or local agency with jurisdiction where there is evidence of contamination in the Franchise Area, or where otherwise incidental to Franchisee's exercise of this Franchise, or where the County is directed to conduct such investigation by an agency or agencies having jurisdiction. Franchisee shall, at its sole cost and expense, timely prepare and submit any reports or communications relating to any remediation actions as required by Environmental Laws. Franchisee shall provide the County with copies of all reports, sampling data, and communications to and from government entities concerning Franchisee's remediation actions taken under this Section 30.3.

Notwithstanding Franchisee's obligation to completely remediate the Franchise Area and any property outside the Franchise Area to which a Release migrated, in the event of any Release, the

County may, in the interest of protecting the health, safety, welfare, and property of the public, immediately take whatever actions it deems necessary or advisable, in its sole discretion, to investigate, contain, or otherwise remediate the Release at issue. The County shall be entitled to reimbursement from Franchisee of any and all costs and expenses incurred by the County under this Section 30.3. Franchisee's reimbursement shall be due upon receipt of the County's invoice for such costs and expenses.

30.4 Franchisee shall address all Hazardous Materials encountered in conducting actions authorized under this Franchise in full compliance with Environmental Laws, including but not limited to the excavation, stockpiling, transportation, and disposal of those materials, at no cost to the County. The County shall not be liable for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with the presence of Hazardous Materials and Franchisee hereby releases the County from any such claims. Franchisee shall conduct actions in the Franchisee Area in a manner that does not cause migration or other exacerbation of the Hazardous Materials. Before carrying out activities that might disturb Hazardous Materials, Franchisee shall contact the County regarding the proposed activity. The County reserves the right to propose alternatives to Franchisee that would not require Franchisee to disturb the Hazardous Materials. Franchisee is not required to remove or otherwise remediate any Hazardous Materials except to the extent necessary to conduct actions authorized under this Franchise or to the extent necessary to remediate any migration or other exacerbation of Hazardous Materials caused by Franchisee. Franchisee shall at no cost to the County, timely prepare and submit any reports or communications required by Environmental Laws concerning any actions under this Section 30.4, and Franchisee shall provide the County with copies of such reports or communications. Franchisee shall also provide the County documentation or other information concerning Franchisee's actions concerning Hazardous Materials that is not submitted to government entities. Nothing in this Franchise shall be construed as limiting Franchisee's ability to pursue the recovery of remedial action costs incurred for excavation, stockpiling, transportation, and disposal of Hazardous Materials from parties other than County Parties.

30.5 Franchisee hereby releases each County Party from, and shall indemnify, defend (at the County's option and using counsel acceptable to the County), and hold each County Party harmless from and against, any and all claims, liabilities, lawsuits, actions, judgments, awards, penalties, administrative proceedings, government orders, fines, expenses, costs (including but not limited to removal, remedial action, or other costs recoverable under CERCLA or MTCA), any and all other requirements, charges, interest, fees, or oversight costs, and all other damages (including, but not limited to, reasonable attorneys' fees and costs) (collectively, "Environmental Claims") incurred or suffered by the County or any County Party and arising out of or related to: (A) any Release within the Franchise Area, including Releases that may migrate from the Franchise Area to property outside the Franchise Area; (B) the acts or omissions of Franchisee or Contractors under this Franchise; and (C) costs of compliance incurred in connection with any Environmental Claim, investigation or other action under Environmental Laws pursuant to Franchisee's exercise of this Franchise.

30.6 If any County Party incurs attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 30 against Franchisee or a Contractor, then all such fees, expenses, and costs shall be recoverable from Franchisee to the extent County Parties prevail in such action. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be

charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

30.7 The Parties specifically and expressly agree that, solely to the extent required to enforce the release, indemnification, defense, and hold harmless obligations contained in this Section 30, Franchisee waives its immunity under RCW Title 51 as to County Parties; provided, however, the foregoing waiver shall not in any way preclude Franchisee from raising such immunity as a defense against any claim brought against Franchisee by any of its employees. This waiver has been mutually negotiated by the Parties.

30.8 All Claims involving Hazardous Material shall be subject to this Section 30 and not the indemnity and liability provisions of Section 18 (Hold Harmless and Indemnification). This Section 30 provides the Parties' exclusive contractual remedies as to Hazardous Materials but does not limit and shall not be deemed to affect the County's statutory rights of recovery or its common law causes of action.

### Section 31. Dangerous Conditions; Authority for County to Abate

31.1 Whenever Franchisee's Construction, Operation, Maintenance, or abandonment of Facilities has caused or contributed to a condition that, in the reasonable opinion of the County Road Engineer, substantially impairs the lateral support of the adjoining road or public or private property, or endangers the public, an adjoining public place, road facilities, County property or private property, the County Road Engineer may direct Franchisee to remedy the condition or danger to the satisfaction of the County Road Engineer, within a specified period of time and at no expense to the County.

31.2 In the event that Franchisee fails or refuses to promptly take the actions directed by the County Road Engineer or fails to fully comply with such directions, the County may take actions that are reasonably necessary to protect the public, the adjacent roads, road facilities, or to maintain the lateral support thereof, or actions necessary to ensure the public safety, and Franchisee shall be liable to the County for the costs thereof.

31.3 This Section 31 does not affect the Parties' rights and obligations regarding Emergencies under Section 23.

### Section 32. Decommissioning of Facilities

32.1 If Franchisee wishes to cease Operation and decommission in place any portion of Facilities, Franchisee shall provide a written decommissioning request ("Request") to the County a minimum of **ninety (90) days** prior to the date Franchisee intends to decommission Facilities. Unless such Request is part of an application for a Franchise Area, construction permit, the Franchisee shall deliver the Request in accordance with Section 9, to the attention of the County Road Engineer and the County contact listed in Section 9.1. Franchisee's Request shall specify which Facilities it wishes to decommission in place along with an acknowledgment that Franchisee will maintain ownership and responsibility of decommissioned Facilities in perpetuity.

32.2 The County will review the Request and assess whether decommissioning in place will pose a hazard to the public use of the Franchise Area. If the County determines that the Request

will pose a hazard to the public use of Franchise Area, the County may deny the Request or alternatively may approve the Request with terms and conditions that Franchisee must meet to ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area.

32.3 If the County approves Franchisee's Request, Franchisee shall continue to own and be responsible for all decommissioned Facilities.

32.4 If the County denies Franchisee's Request in whole or in part, or if Franchisee refuses to accept terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area, then Franchisee may not decommission in place the subject Facilities.

32.5 If Franchisee decommissions Facilities after the County has denied its Request, or if Franchisee fails to satisfy any terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of the Franchise Area, then Franchisee shall be deemed to have decommissioned Facilities without authorization. In the event of any unauthorized decommissioning of any portion of Facilities by Franchisee, the County may, at its election, and in addition to any other remedies or enforcement options available to the County under this Franchise, at law or in equity, remove all or any portion of the decommissioned Facilities on behalf of Franchisee and restore the Franchise Area following such removal. If the County chooses to remove Facilities and restore the Franchise Area on Franchisee's behalf, then the County may dispose of the removed Facilities in any manner it deems fit, and Franchisee shall reimburse the County for all costs and expenses incurred by the County in performing such removal and restoration activities.

32.6 Within **ninety (90) days** of the end of the term of this Franchise, including any extension, renewal, or termination thereof, Franchisee shall provide a Request to the County pursuant to Section 32.1 if Franchisee wishes to decommission in place any of its Facilities. The Request and the Parties' associated obligations and rights shall be subject to the provisions of Sections 32.1 through 32.5. If Franchisee fails to provide such Request within **ninety (90) days**, Franchisee shall be deemed to have decommissioned in place its Facilities without authorization, and the County shall have the remedies available to it under Section 32.5 in addition to any other remedies or enforcement options available under the Franchise, at law or in equity.

32.7 For purposes of this Franchise, decommissioning includes failure by Franchisee to use any portion of Facilities for twelve (12) consecutive months. Use by Colocators or other third parties shall not constitute "use" for purposes of determining whether decommissioning has occurred under this Section 32.

32.8 If Franchisee does not intend to continue use of any Facilities which are occupied by a Colocator, and Franchisee desires to transfer ownership of Facilities to said Colocator rather than decommissioning them in place, Franchisee shall notify the County of its intentions as prescribed in Section 17, and any transfer shall be subject to the terms of Section 17. No Facilities located in the clear zone shall be decommissioned in place or transferred to another party.

## EXECUTION



(NOTARY PAGE FOLLOWS)

**[FRANCHISEE NAME]**

STATE OF WASHINGTON )  
 ): ss.  
COUNTY OF King County )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, and under oath stated that as \_\_\_\_\_ of \_\_\_\_\_, s/he was authorized to execute the foregoing instrument, which s/he signed as a free and voluntary act on behalf of and with the knowledge and authority of \_\_\_\_\_.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or type name)

Notary Public in and for the State of Washington  
residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

**KING COUNTY**

STATE OF WASHINGTON )  
 ): ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me as the Director and Chief Information Officer, Department of Information Technology, for King County, and under oath stated that s/he was authorized to execute the foregoing instrument, which s/he signed as a free and voluntary act on behalf of and with the knowledge and authority of King County.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or type name)

Notary Public in and for the State of Washington  
residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

## EXHIBIT A

### FRANCHISE AREA DESCRIPTION



**HyperFiber of Washington, LLC Franchise Application Supplemental Documentation for the following application items:**

**1. Proposed service area map for unincorporated King County.**

Attached is a copy of HyperFiber's mapping exhibit for the City's review. The areas that are highlighted in a lighter blue color on sheet 1 are an entire overlay of the locations that we are considering.

Sheets 2 and 3 depict the areas that we would consider proceeding with providing service. Sheet 3 of the exhibit provides a more detailed view of the proposed first service area.

The Section, Township and Range for this location is:

**Section 7, Township 13S, Range 6E.**

HyperFiber proposes to place a fiber optic infrastructure that will provide high speed internet service to residential areas once we have determined all of the actual service locations.

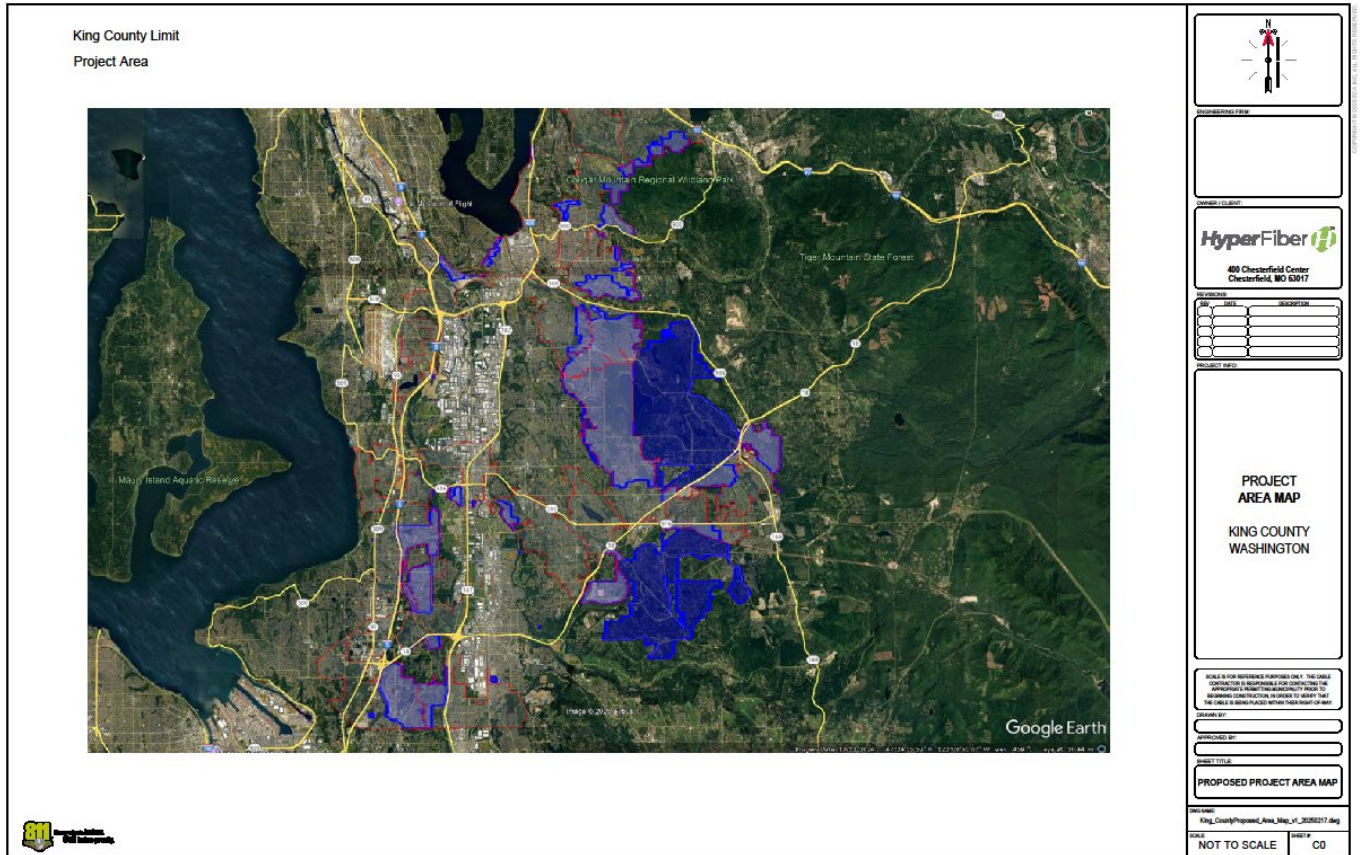
Fiber optic facilities would be placed within the city right of way which could include the use of public utility easements, or easements dedicated for compatible uses. Fiber will be placed in locations that are capable of accommodating the installation of fiber and other associated appurtenances, and all construction guidelines of the city will be followed. Power delivery for active cabinets will be provided by the local area service provider and electrical service will be brought to the cabinet by underground installation methods.

HyperFiber does not know the exact build-out locations of the proposed fiber service area. This will be determined when we identify the fiber needs of the community. In general, HyperFiber will be proposing to work entirely within the boundary of the City. Location specific plans will be permitted through the city as required. HyperFiber's build-out schedule is anticipated to be over a period of 1 to 2 years.

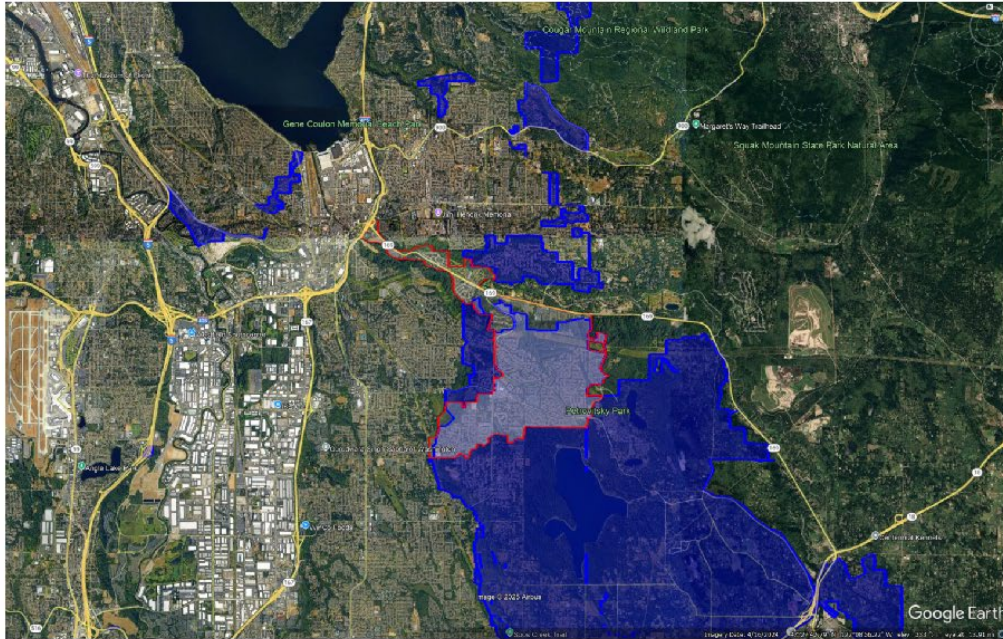
Page 1 of 1


# EXHIBIT B


## FRANCHISE AREA MAPS



King County Limit  
Project Area







400 Chesterfield Center  
Chesterfield, MO 63017

DATE	REVISION

**PROJECT AREA MAP**

**KING COUNTY WASHINGTON**

SCALE IS FOR REFERENCE PURPOSES ONLY. THE USER OF THIS DOCUMENT IS RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. IT IS ADVISED THAT THE USER SHALL BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

DESIGNED BY: \_\_\_\_\_

DRAWN BY: \_\_\_\_\_

CHECKED BY: \_\_\_\_\_

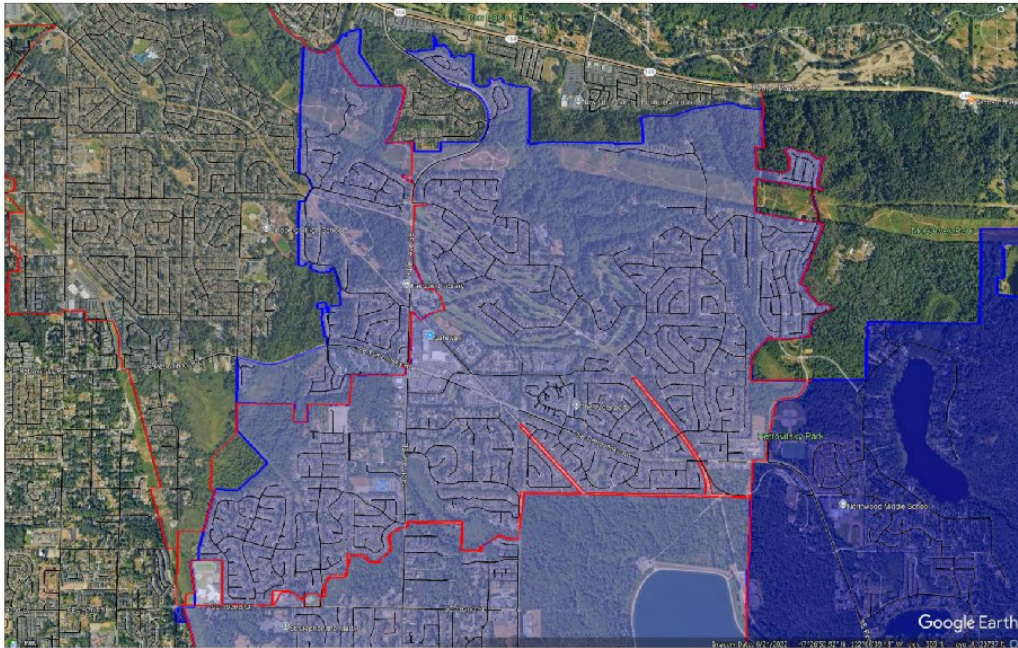
DATE: \_\_\_\_\_


**PROPOSED FIRST BUILD AREA**

PROJECT: King County Proposed Area Map v1\_20200717.dwg

SCALE: NOT TO SCALE	SHEET: C1
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King County Limit  
 Project Area  
 Proposed Routes





---



400 Chesterfield Center  
 Chesterfield, MO 63017

---

NO.	DATE	DESCRIPTION

---

**PROJECT AREA MAP**

**KING COUNTY WASHINGTON**

---

SCALE IS FOR REFERENCE PURPOSES ONLY. THE USER CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE APPROXIMATE LOCATION AND ACCURACY OF ALL INFORMATION CONTAINED HEREIN. THE USER IS SOLEMNLY ADVISED TO VERIFY THAT THE DATA IS CORRECT PRIOR TO ANY USE OF THIS DATA.

DESIGNED BY: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

SHEET TITLE: **PROPOSED ROUTES**

---

SHEET NO: KING\_County\_Proposed\_Area\_Map\_v1\_0520217.dwg

SCALE: NOT TO SCALE	SHEET: C2
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**EXHIBIT C**  
ADDITIONAL LANGUAGE

**EXHIBIT D**

**NON-STANDARD ADDITIONS TO FRANCHISE DOCUMENT**

1

5/4/2026

Update exhibits + agreement  
cleanup

[T. Rose]

Sponsor: von Reichbauer

Proposed No.: 2025-0286

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2025-0286, VERSION**

2 **1**

3 On page 1, beginning on line 11, after "King County" strike "in council districts five,  
4 seven and nine"

5

6 Strike Attachment A, HyperFiber of Washington LLC Franchise Agreement Right of  
7 Way Franchise for Wireline Communications, and insert Attachment A, HyperFiber of  
8 Washington LLC Franchise Agreement Right of Way Franchise for Wireline  
9 Communications, dated May 5, 2026.

10

11 **EFFECT prepared by T. Rose: Would replace the transmitted franchise agreement**  
12 **with an updated version of the agreement, dated 5/5/26, that makes technical and**  
13 **clarifying changes, as well as changes the franchise area to encompass all**  
14 **unincorporated areas in the county.**

**HyperFiber of Washington, LLC**

**RIGHT-OF-WAY FRANCHISE  
FOR  
WIRELINE COMMUNICATIONS**

**Franchise No. FRAN25-0002**

**King County, Washington**

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**I. ESTABLISHMENT**

**RECITALS**

WHEREAS, King County, a home rule charter county and political subdivision of the State of Washington, is authorized to grant franchises for use of County ROW (as defined below); and

WHEREAS, King County grants franchises to persons or public and private Utility corporations to authorize the Utility companies to use County ROW to provide Utility service in unincorporated areas of King County. Franchises grant a valuable property right to Utility companies to use County ROW, and thereby allow the Utilities to profit and benefit from the use of County ROW in a manner not generally available to the public; and

WHEREAS, on February 24, 2025, HyperFiber of Washington, LLC applied for a King County Utility franchise for the right to use County ROW for the Construction, Operation, and Maintenance of Wireline Telecommunications transmission and service lines, within the Franchise Area delineated in Exhibits A and B; and

WHEREAS, the King County Department of Executive Services and Department of Local Services have reviewed HyperFiber of Washington, LLC’s application for a Utility franchise; and

WHEREAS, legal notice of the franchise application and of the hearing has been given as required by Law (as defined below).

**APPLICATION AND HEARING**

In accordance with applicable Laws (as defined below), the County Council (as defined below) held a public hearing to solicit comments from the public and to consider the application of HyperFiber of Washington, LLC, a limited liability company, (“Franchisee”)

for a franchise to set, erect, lay, place, locate, relocate, construct, reconstruct, install, reinstall, extend, support, adjust, affix, attach, connect, align, realign, alter, modify, improve, operate, maintain, repair, remove, replace, and use transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the County ROW located within the Franchise Area described in the attached Exhibit "A" ("Franchise Area Legal Description") and mapped in the attached Exhibit "B" ("Franchise Area Maps").

## **GRANT OF FRANCHISE**

The County Council (as defined below) has found that it is in the public interest to grant this franchise and has ordered that a non-exclusive Wireline Telecommunications franchise be granted to HyperFiber of Washington, LLC, and its successors and assigns ("Franchisee"), subject to the terms and conditions contained in this franchise agreement (the "Franchise").

This Franchise grants Franchisee the right, privilege, and authority to use the Franchise Area (as defined below) to set, erect, lay, construct, extend, support, attach, connect, operate, maintain, repair, relocate, remove, replace, and use Facilities (as defined below) for Wireline Telecommunications, including transmission, distribution, and service lines, protective relay systems, fiber optic communications, and appurtenances in, upon, over, along, across, through, and under the Franchise Area.

This Franchise does not transfer, convey, or vest an easement or title in or to any County ROW or portions thereof in or to Franchisee. This Franchise is granted subject to all of the terms and conditions contained herein.

## **II. TERMS AND CONDITIONS**

### **GOVERNANCE; RULES AND REGULATIONS**

#### Section 1. Definitions

References to any County official or office also refer to any official or office that succeeds any or all of the responsibilities of the named official or office. The following definitions shall apply for the purposes of this Franchise and all exhibits attached hereto. Defined words shall have their meaning as defined in this section or elsewhere in this Franchise when capitalized in the text. Defined words in the singular will be held to include the plural and vice versa, as applicable and depending on the context. Words not defined, and defined words when not capitalized in the text shall be given their common and ordinary meaning.

Authorized Hazardous Materials. Hazardous Materials that are reasonably necessary for Franchisee's activities authorized by the Franchise and that are customarily used in Franchisee's industry. The use of Authorized Hazardous Materials does not constitute a Release.

Colocation or Colocator. The term “Colocation” means the placement and arrangement of other users’ lines, facilities, and equipment on Facilities. The term “Colocator” shall mean a third-party Utility or other authorized user to attach or occupy Facilities pursuant to Section 28 of this Franchise.

Construct or Construction. Activities performed by Franchisee, its agents, representatives, employees, and Contractors to construct, reconstruct, install, reinstall, align, realign, locate, relocate, adjust, affix, attach, modify, improve, or remove Facilities, and related activities such as digging or excavating for the above purposes.

Contractor. All persons or entities that by contract agree to perform work or provide services to the Franchisee. For purposes of the Franchise, the term also includes a Contractor’s subcontractors.

County. King County, a home rule charter county and political subdivision of the State of Washington. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by the Director.

County Council. The metropolitan county council of King County, a home rule charter county, in accordance with the Constitution of the State of Washington.

County Parties. The County, its elected and appointed officials, officers, employees, agents, and contractors.

County Risk Manager. The director of the County’s Office of Risk Management Services.

County Road Engineer. The county road engineer as defined in KCC 14.01.100 and specified in RCW 36.75.010 and RCW 36.80.010.

County ROW. All public land, property, or property interest, (e.g., an easement), usually in a strip, as well as bridges, trestles, or other structures, acquired by or dedicated to the County or otherwise devoted to transportation purposes, including but not limited to all maintained or unmaintained County roads, streets, avenues, or alleys. For purposes of this Franchise, “County ROW” does not include recreational or nature trails except where such trails intersect with or are located within County ROW. Any reference to use of or in the County ROW includes use in, upon, over, along, across, through, or under the County ROW, as applicable.

Default. A failure, whether intentional or unintentional, to perform, satisfy, or discharge, or to breach, any term or condition of this Franchise.

Director. The Director/Chief Information Officer of the Department of Information Technology or a designee. Where discretionary acts by the County are authorized or required herein, unless otherwise stated such acts shall be performed by the Director.

Effective Date. The date this Franchise is fully executed by the Parties.

Emergency. Any situation that creates or presents an immediate risk of danger to life, property, safety, public health, or the environment.

Environmental Laws. Any Laws or other federal, state, or local statutes, regulations, codes, rules, ordinances, orders, judgments, decrees, injunctions, proceedings, or instructions pertaining in any way to the protection of human health, safety, and the environment, including those relating to the generation, use, handling, transportation, storage, release, discharge, or disposal of Hazardous Materials. Environmental Laws may include, as applicable, the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §5101, et seq.), the Pipeline Safety Act (49 U.S.C. §60101, et seq.), the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Title 49 Code of Federal Regulations), Transportation of Hazardous Liquids by Pipeline (49 C.F.R. Part 195), the Toxic Substances Control Act (15 U.S.C. §2601, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136, et seq.), the Clean Air Act (42 U.S.C. §7401, et seq.), the Clean Water Act (33 U.S.C. §1251, et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251, et. seq.), the Washington Hazardous Waste Management Act (RCW Chapter 70A.300), the Washington State Model Toxics Control Act (RCW Chapter 70A.305) (“MTCA”), the Washington Water Pollution Control Act (RCW Chapter 90.48), the Washington State Pipeline Safety Act (RCW Chapter 81.88), Washington Administrative Code (“WAC”) Chapters 480-90 and 480-93, the King County Critical Areas Ordinance (KCC Chapter 21A.24), and any other similar federal, state, or local environmental statute, rule, or regulation, each as enacted or amended from time to time, including any laws concerning above ground or underground storage tanks. The term shall also be interpreted to include any substance that, after released into the environment, will or may reasonably be anticipated to cause death, disease, behavior abnormalities, cancer, or genetic abnormalities.

Facilities. Collectively and as applicable, the facilities owned, co-owned, or operated by Franchisee, including all plant, equipment, fixtures, appurtenances, antennas, and other facilities in the Franchise Area necessary to furnish and deliver Wireline Telecommunications services, including but not limited to poles with cross arms, poles without cross arms, wires, lines, conduits, ducts, cables, communication and signal lines, and equipment, braces, guys, anchors, vaults, and all attachments and appurtenances necessary or incidental to the transmission, distribution, and use of Wireline Telecommunications services. For the avoidance of doubt, Facilities shall not include cable television lines or cables or wireless transmission facilities.

Found Hazardous Material(s). Hazardous Material that exists within the Franchise Area or other property, whether public or private, the presence of which was not, in whole or part, caused by the act or omission of Franchisee Parties during or prior to the term of this Franchise.

Franchise. This franchise agreement and any mutually agreed amendments or exhibits to this franchise agreement.

Franchise Area. That portion of the County ROW wherein the County has authorized Franchisee to place Facilities, as identified and described in the attached Exhibits A and B.

Franchisee. HyperFiber of Washington, LLC, and its successors and those assignees approved pursuant to Section 17 (Transfer and Assignment).

Franchisee Parties. Franchisee, its officials, employees, and all agents and Contractors acting on behalf of Franchisee.

Gross Revenues. All revenue derived by Franchisee from a Colocator's use of Facilities or any component thereof. Gross Revenues shall include the value of any consideration received by Franchisee in exchange for the use of Facilities. Gross Revenues shall also include late fees, administrative fees, or any other monetary amount collected from a Colocator arising out of use of Facilities.

Hazardous Material(s). Any waste, pollutant, contaminant, deleterious substance, or other material that now or in the future becomes regulated, controlled, or defined under any Environmental Laws.

Laws. Federal, state, and local laws, regulations, and utility standards including, but not limited to: Article 11, Sec. 4 of the Washington Constitution, RCW 36.55.010, King County Code (hereafter "KCC") chapter 6.27, the County's Comprehensive Plan, Road Standards, King County regulations for accommodation of utilities on county road rights-of-way, zoning code, and other regulations that are applicable to any and all work or other activities performed by Franchisee pursuant to or under authority of this Franchise, Franchisee's approved comprehensive plan under KCC 13.24.010, and state and local health and sanitation regulations. Unless otherwise stated herein, references to laws include laws now in effect as of the Effective Date of this Franchise.

Maintain or Maintenance. Examining, testing, inspecting, repairing, maintaining, and replacing Facilities or any part thereof as required and necessary or as prudent for effective, efficient, and safe Operations and related activities, as performed by or on behalf of Franchisee, unless otherwise provided herein.

Operate or Operations. The operation and use of Facilities for transmission or delivery of Wireline Telecommunications services to Franchisee's customers or the use by Colocators of Facilities pursuant to Section 28.

Party or Parties. The County and Franchisee individually or collectively as the context in this Franchise provides.

Release. The release, leak, deposit, seepage, spill, or escape of any Hazardous Material caused or contributed to by Franchisee or a Contractor.

Road Standards. The King County Road Design and Construction Standards adopted pursuant to KCC 14.42 and as now or hereafter amended.

Roadside Management Program or RMP. A program developed by Franchisee and accepted by the County to identify Facilities not in compliance with County Road Standards and to remediate same to bring such Facilities into compliance therewith.

Roadside Management Work Plan or RMP Work Plan. An annual remediation plan, including a

schedule of work for the coming year to accomplish the RMP.

Roadside Management Work Report or RMP Work Report. An annual report of progress on the remediation work carried out during the previous year under the RMP and the annual RMP Work Plan.

Utility. All persons or public or private organizations of any kind that are subject to the provisions of KCC 6.27, KCC 6.27A, and KCC 14.45 with regard to use of County ROW.

Wireline Telecommunications. The transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, including fiber-optic cable or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission, without change in the form or content of the information or content of the information sent and received. The term shall not include stand-alone minor communications facilities as described in KCC Chapter 21A.27, stand alone "wireless telecommunications facilities" and "wireless minor communications facilities" as described in KCC Chapter 14.45, cable service (as such term is defined in 47 U.S.C. § 522), or open video system (as such term is defined in 47 U.S.C. § 573).

## Section 2. Non-Exclusive Franchise

2.1 The Franchise is granted to Franchisee as a non-exclusive franchise which shall not in any manner prevent or hinder the County from granting to other parties, at other times and under such terms and conditions as the County, in its sole discretion, may deem appropriate, other franchises or similar use rights in any County ROW. Additionally, this Franchise shall in no way prevent, inhibit, or prohibit the County from using any of the County ROW for any County purpose, nor shall this Franchise affect the County's jurisdiction, authority, or power over any County ROW, in whole or in part. The County expressly retains its power to make or perform any and all modifications or relocations reasonably necessary for the County to carry out any County purpose, including but not limited to, the construction, alteration, improvement, repair, operation, maintenance, or removal of County facilities in the County ROW, as well as the power to vacate the County ROW.

2.2 Any work related to any Facilities occurring in the Franchise Area covered by this Franchise shall be performed by Franchisee Parties in a safe and workmanlike manner, in such a way as to minimize interference with the free flow of traffic and the access to adjacent property.

2.3 Franchisee accepts the Franchise Area in an "as is with all faults" basis with any and all patent and latent defects and is not relying on any representation or warranties, express or implied, of any kind whatsoever from the County as to any matters concerning the Franchise Area, including, but not limited to, the physical condition of the Franchise Area; zoning status; presence and location of existing facilities; operating history; compliance of the Franchise Area with Environmental Laws or other Laws and other requirements applicable to the Franchise Area; the presence of any Hazardous Materials or wetlands, asbestos, or other environmental conditions in, on, under, over, or in proximity to the Franchise Area; the condition or existence of any of the

above ground or underground structures or improvements in, on, over, or under the Franchise Area; the condition of title to the County ROW, and the leases, easements, franchises, orders, licenses, or other agreements, affecting the Franchise Area (collectively, the “Condition of the Franchise Area”).

The County hereby disclaims any representation or warranty, whether expressed or implied, as to the design or Condition of the Franchise Area, its merchantability or fitness for any particular purpose, the quality of the material or the workmanship of the Franchise Area, or the conformity of any part of the Franchise Area to its intended uses. King County shall not be responsible to any Franchisee Party for any damages to any of them relating to the design, condition, quality, safety, merchantability, or fitness for any particular purpose of any part of the Franchise Area, or the conformity of any such property to its intended uses, as of the Effective Date of this Franchise. Franchisee shall notify its Contractors of King County’s disclaimer. Franchisee represents and warrants to King County that neither Franchisee nor any Contractor has relied and will not rely on, and King County is not liable for or bound by, any warranties, guaranties, statements, representations, or information pertaining to the Condition of the Franchise Area or relating thereto made or furnished by King County, or any agent representing or purporting to represent King County, to whomever made or given, directly or indirectly, orally or in writing.

### Section 3. Term

3.1 The initial term of this Franchise is for a period of ten (10) years (the "Initial Term") from the Effective Date, unless earlier terminated or revoked.

3.2 Franchisee may request an extension of the Initial Term, and the Director, on behalf of the County, may extend the Initial Term of this Franchise for an additional period of up to fifteen (15) years, under the following circumstances:

- (A) Franchisee’s request to extend the Initial Term must be in writing and submitted to the County not more than two (2) years nor less than two hundred forty(240) days prior to the expiration of the Initial Term, and
- (B) Franchisee has maintained substantial compliance with the terms and conditions of this Franchise throughout the Initial Term. The Director shall have final authority to determine Franchisee’s substantial compliance with the terms and conditions of this Franchise, provided that any such determination be made on an objective, non-discriminatory basis and based on record evidence fully disclosed to Franchisee.

3.3. The Initial Term will not be extended under this Section 3. unless Franchisee receives approval of an extension and the length of the extension in writing from the County within ninety (90) days of the County’s receipt of Franchisee’s request to extend.

3.4 If the Initial Term is not extended, and Franchisee wishes to continue to operate in the Franchise Area, Franchisee shall promptly file an application with the County for renewal of this Franchise in accordance with KCC 6.27.054. Upon receipt of such application, the County and Franchisee shall commence good faith negotiations on the terms and conditions of a franchise renewal.

If the Parties are unable to reach agreement to renew this Franchise prior to expiration of the Initial Term, then this Franchise will expire at the end of the Initial Term and Franchisee will be considered an unfranchised Utility under KCC chapter 14.44. If Franchisee continues to use the Franchise Area for Facilities after the expiration of the Franchise, Franchisee's continued use shall be subject to the terms and conditions of the expired Franchise, including Consideration, and at the will of the County ("Holdover Period"). Said use will not constitute a renewal or extension of the Franchise and will be subject to termination by the County in its sole and absolute discretion upon sixty (60) days' written notice to Franchisee.

#### Section 4. County Ordinances and Regulations - Reservation of Police Power

Nothing in this Franchise shall be deemed a waiver of the County's right to exercise its police power to protect the health, safety and welfare of the public, and the County reserves all such powers.

#### Section 5. Eminent Domain

The Facilities are subject to the power of eminent domain in accordance with and subject to Laws. In any proceeding under eminent domain, the Franchise itself shall have no value.

#### Section 6. Survival

6.1 Until such time as all Facilities have been removed from the County ROW, all of the provisions, conditions, and requirements contained in the following Sections of this Franchise shall survive the expiration, revocation, forfeiture, or termination of the Franchise and any Holdover Period: (A) Section 7 (Governing Law, Stipulation of Venue, and Non-Discrimination); (B) Section 14 (Default, Revocation, and Termination); (C) Section 15 (Disputes; Remedies to Enforce Compliance; No Waiver); (D) Section 16 (Consideration and Reservation of Rights); (E) Section 18 (Hold Harmless and Indemnification); (F) Section 19 (Franchise Administration); (G) Section 20 (Insurance Requirements); (H) Section 21 (Performance Bond); (I) Section 22 (Right-of-Way Construction Permit Required); (J) Section 23 (Emergency Work); (K) Section 24 (Compliance with Laws; Performance Standards); (L) Section 25 (Restoration of County ROW); (M) Section 26 (Maps and Records); (N) Section 27 (Relocation of Facilities); (O) Section 28 (Use of Facilities by Colocators); (P) Section 30 (Hazardous Materials); (Q) Section 31 (Dangerous Conditions; Authority for County to Abate); and (R) Section 32 (Decommissioning of Facilities).

6.2 After such time as all Facilities have been removed or decommissioned in place to the County's satisfaction, only the following provisions shall survive the expiration, revocation, or termination of the Franchise, including any Holdover Period: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

6.3 The following provisions shall survive and apply to any area removed from the coverage of the Franchise as the result of events including, but not limited to, full or partial termination of the Franchise, annexation or incorporation under Section 12, and reduction of the Franchise Area under Section 13: (A) Section 18 (Hold Harmless and Indemnification); (B) Section 19 (Franchise Administration); (C) Section 26 (Maps and Records); and (D) Section 30 (Hazardous Materials).

## Section 7. Governing Law, Stipulation of Venue, and Non-Discrimination

7.1 This Franchise and all use of the Franchise Area granted herein shall be governed by the laws of the State of Washington without giving effect to its choice of law rules or conflicts of law provisions, unless preempted by federal law. Any action relating to the Franchise shall be brought in King County Superior Court, King County, Washington, or in the case of a federal action, in the United States District Court for the Western District of Washington at Seattle, unless an administrative agency has primary jurisdiction.

7.2 Nondiscrimination: Franchisee, its successors, and assigns, shall not discriminate on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression, status as a family caregiver, military status or status as a veteran who was honorably discharged or who was discharged solely as a result of the person's sexual orientation or gender identity or expression, or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualification, in the employment or application for employment or in the administration or delivery of services or any other benefits under King County Code Chapter 12.16, as now codified and as hereafter amended. Franchisee shall comply fully with all applicable federal, state, and local Laws, ordinances, executive orders, and regulations that prohibit such discrimination. These Laws include, but are not limited to, King County Charter Section 840, RCW chapter 49.60, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a Default by Franchisee of this Franchise and shall be grounds for revocation, termination, or suspension, in whole or in part, of the Franchise and may result in ineligibility for further agreements with the County.

## Section 8. Severability

If any Section, sentence, clause, phrase, or provision of this Franchise or the application of such provision to any person or entity should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause, phrase, or provision of this Franchise, nor the application of the provision at issue to any other person or entity.

## Section 9. Notice and Emergency Contact

9.1 Wherever in this Franchise written notices are to be given or made, they shall be sent by electronic mail ("email") with delivery receipt requested, unless otherwise required by Laws or for service of legal process. The Parties agree to receive notices at the addresses listed below unless different addresses shall be designated in writing and delivered to the other Party. Notices shall be deemed to have been delivered according to Section 9.2.

### **KING COUNTY:**

King County Office of Information Technology  
Attn: King County Office of Cable Communications  
King County Chinook Building  
401 Fifth Avenue Suite 600  
Seattle, Washington 98104  
Email: [cableoffice@kingcounty.gov](mailto:cableoffice@kingcounty.gov)

Phone: (206) 263-7880

Designated Representative:

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**With a mandatory electronic copy to:**

King County Facilities Management Division  
Email: [Franchise.FMD@KingCounty.gov](mailto:Franchise.FMD@KingCounty.gov)

**HyperFiber of Washington, LLC**  
6000 Fairview Rd., Suite 300,  
Charlotte, NC 28210  
Attn: Lance van der Spuy, President

Designated Representative:

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And a copy sent to:

**HyperFiber of Washington, LLC**  
822 Montgomery Ave., Suite 210  
Narberth, PA 19072  
Attn: Joshua Runyan, Esq.  
Ph: (704) 989-3217  
Email: [Josh@ripplefiber.com](mailto:Josh@ripplefiber.com)

9.2 If a notice or communication is given by email, the notice or communication shall be deemed to have been given and received when sent. If a notice or communication is given by certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid and return receipt requested. If a notice or communication is given by courier or personal service, it shall be deemed to have been given when delivered to and received by the Party to whom it is addressed, with the sending Party responsible to confirm delivery of such notice and to provide proof of such service if requested by the receiving Party. If a Party disputes the delivery or receipt of a notice or communication, then that Party shall bear the evidentiary burden to prove, by a preponderance of the evidence, that such notice or communication was not delivered or received or both.

9.3 Franchisee shall also provide the County a current emergency contact name (or title) and phone number available twenty-four (24) hours a day, seven (7) days a week. Franchisee shall promptly notify the County of any change in the notice address or emergency contact (or title) and phone number.

Section 10. Tariffs, Notice of Changes [Intentionally Deleted - Not Applicable]

## Section 11. Amendment

This Franchise may be amended only by written agreement of the Parties, provided that, except as otherwise provided in this Franchise, such amendment shall be subject to approval by the County Council. The Director is authorized to execute the following amendments on behalf of the County without prior County Council approval: changes to the Franchise Area, extension of this Franchise under Section 3.2 (Term), agreements as to the amount, type, and terms of Consideration under Section 16 (Consideration and Reservation of Rights), consent to transfer and assignment under Section 17 (Transfer and Assignment), adjustments under Section 20 (Insurance Requirements), and minor technical corrections or updates.

## Section 12. Incorporation and Annexation

If the Franchise Area covered by this Franchise is incorporated into the limits of any city or town by operation of municipal incorporation or annexation, the Franchise granted herein shall terminate as to that portion of the Franchise Area that is incorporated or annexed into the corporate limits of such city or town; but this Franchise shall continue as to those portions of the Franchise Area that are not incorporated into a city or town. The County shall not be liable to Franchisee for any damages, loss, costs, or other impacts that may arise out of or relate to such annexation or incorporation.

## Section 13. Vacation

13.1 Subject to Section 13.2, if all or any portion of a County ROW which is subject to this Franchise is vacated by the County, then this Franchise shall terminate with respect to the vacated portion of such County ROW. The County shall not be liable for any damages or loss to Franchisee by reason of such vacation and termination.

13.2 Whenever a County ROW or any portion thereof is vacated, the County may retain an easement in the vacated portion for the construction, repair and maintenance of public utilities and services which at the time of the vacation are specifically authorized or are physically located upon, over, under, across, or through a portion of the County ROW being vacated, but only in accordance with the provisions of RCW 36.87.140 as now existing or hereafter amended. In the event of any such vacation, the County shall notify Franchisee at least sixty (60) days prior to taking final action. Should Franchisee desire the County to retain a utility easement in the vacated County ROW, Franchisee may request that the County retain such an easement over the property at issue as a part of any proposed action taken by the County Council on the particular vacation. Should Franchisee make such a request, the County may retain said easement in the manner and to the extent allowed by law.

## Section 14. Default, Revocation, and Termination

14.1 If Franchisee Defaults on any term or condition of this Franchise, the County may revoke or terminate the Franchise as provided in this Section 14 or pursue any remedy in equity or under Laws. Upon revocation or termination, all rights of the Franchisee granted by this Franchise shall cease, and the County may suspend or withdraw approval of any active ROW construction permits.

14.2 A Party asserting a Default shall give the other Party written notice of such Default, stating with specificity the events or circumstances and nature of the alleged Default. The Party receiving such notice shall have forty-five (45) days following receipt to: (1) cure the Default; or (2) demonstrate to the other Party's satisfaction that a Default does not or no longer exists; or (3) submit a plan satisfactory to the other Party to correct the Default within a reasonable time. If, at the end of the forty-five (45) day cure period, the non-defaulting Party reasonably believes that the Default is continuing and the Party allegedly in Default is not taking satisfactory corrective action to cure or correct the Default, then the non-defaulting Party may invoke any of the remedies available under this Franchise, in equity, or under Laws.

14.3 The County may, in its discretion, provide additional opportunity for Franchisee to remedy the Default and come into compliance with this Franchise so to avoid revocation or termination.

14.4 During any period in which Franchisee is in Default, the County may suspend, withdraw, or decline to issue any ROW construction permits to Franchisee.

14.5 If the County, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate an Emergency or any substantial and imminent risk to public health, welfare, or safety or imminent and substantial damage to the County ROW or adjacent properties, then the County may pursue any remedies under this Franchise, in equity, or under Laws without prior notice of Default to Franchisee and without waiting for the Default cure period to expire.

14.6 If this Franchise is revoked or terminated for any reason, the County may satisfy any remaining financial obligations of Franchisee by utilizing any funds available under the performance bond required in Section 21 (Performance Bond).

#### Section 15. Disputes: Remedies to Enforce Compliance; No Waiver

15.1 If a dispute under this Franchise other than a Default arising under Section 14 (Default, Revocation, and Termination) arises between the County and Franchisee, it shall first be referred to the representatives that have been designated by the County and Franchisee to have oversight over the administration of this Franchise, pursuant to Section 9.1 above. The representatives shall meet within a reasonable time not longer than thirty (30) calendar days of either Party's request for a meeting, whichever request is first, and the Parties shall make a good-faith effort to achieve resolution of the dispute. If the Parties' representatives are unable to resolve the dispute during their initial meeting, and unless further negotiations are agreed upon by the Parties, the dispute shall be referred to mediation. The Parties shall mutually select a mediator to assist them in resolving their differences. If the Parties cannot mutually select a mediator, then the County shall provide Franchisee a list of three mediators and Franchisee shall select one from the list. Any reasonable expenses incidental to mediation shall be borne equally by the Parties, provided that each Party shall bear its own legal expenses unless the mediation results in a different allocation.

If mediation fails to resolve the dispute within thirty (30) days after the matter is eligible for submission to mediation, then either Party may then pursue any remedy under this Franchise, in equity, or under Laws, provided that if the Party seeking judicial redress does not substantially prevail in the judicial action, then it shall pay the other Party's reasonable legal fees and costs incurred in the judicial action.

15.2 Failure of the County or Franchisee to exercise any rights or remedies under this Franchise shall not constitute a waiver of any such right or remedy and shall not prevent the County or Franchisee from pursuing such right or remedy at any future time.

15.3 If the County reasonably determines that circumstances require immediate action to prevent or mitigate imminent and substantial damage or injury, then it may immediately pursue any remedy available at law or in equity without having to follow the dispute resolution procedures in this Section 15.

15.4 In addition to judicial enforcement and any remedies under this Franchise, in equity, and Laws, the Director is authorized to enforce this Franchise in accordance with the enforcement and penalty provisions of KCC Title 23.

## **CONSIDERATION AND RESERVATION RIGHTS**

### Section 16. Consideration and Reservation of Rights

16.1 Unless otherwise precluded by federal or state law, and in no case exceeding limits prescribed by applicable federal and/or state law, Franchisee agrees that the County has reserved its right to receive compensation or other consideration (“Consideration”), and which Consideration will be in exchange for the Franchisee’s right to use and occupy the County ROW and Franchise Area. The Parties agree that the County shall exercise this right by providing Franchisee with written notice to commence negotiations to amend this Franchise, which notice will describe the proposed Consideration. Within thirty (30) days from receipt of notice from the County, the Parties shall engage in good faith negotiations for a period of sixty (60) days thereafter, in an effort to reach agreement on the amount, type, and terms of the Consideration. The sixty (60) day period for negotiations may be extended by mutual written agreement of the Parties.

16.2 If the Parties agree on the amount, type, and terms of the Consideration, then they shall amend this Franchise in accordance with Section 11; provided, however that the Director is authorized on behalf of the County to execute any such amendment. If the Parties are unable to agree on the amount, type, and terms of the Consideration during the sixty (60) day negotiation period (as may be extended by mutual agreement), the County may declare such failure to agree to be an event of Default to be resolved in accordance with Section 14.2.

16.3 No Consideration payment or acceptance of any payment made shall be construed as an accord by either Party that the amount paid is in fact the correct amount, nor shall any payment or acceptance of payment be construed as a release of any claim either Party may have for further reimbursement or additional sums payable or for the performance of any other obligation under the Franchise.

16.4 Separate from the Consideration that is the subject of Section 16.1, the County reserves for itself the right to impose a Utility tax on Franchisee, if such taxing authority is granted by the State of Washington.

16.5 Separate from the Consideration that is the subject of Section 16.1, Franchisee shall pay all applicable fees as specified in King County Code to cover the County's costs in drafting, processing, and administering this Franchise and all work related thereto.

16.6 If Franchisee allows Colocators to use Facilities in the Franchise Area, then Franchisee shall make an annual revenue-sharing payment to the County in the amount of ten percent (10%) of the total amount of Franchisee's Gross Revenues derived from Colocator's use of Facilities ("Revenue-Sharing Payment"). Payment shall be made to the County on a quarterly basis, which shall be due and payable no later than thirty (30) days after the end of each calendar quarter, and shall include a summary of the financial information used to calculate the payment.

16.7 If this Franchise terminates for any reason, or if Franchisee fails to satisfy such financial obligations within forty-five (45) days following receipt of written notice describing such financial obligations together with reasonable documentation evidencing such obligations, the County shall have the right to satisfy any remaining financial obligations of Franchisee by utilizing any funds available under any performance bond required in Section 21.

16.8 In exchange for the valuable property right herein granted to Franchisee to occupy and use the County ROW, the Parties may contract for Franchisee to provide the County with reasonable in-kind services and facilities, including duct, conduit, fiber optic cable, appurtenances, or other related structures necessary for the County to access and use the County facilities for public use and benefit. Additionally, when the Franchisee is constructing, relocating, or placing Wireline Telecommunications Facilities in the County ROW, the Franchisee may, upon request of the County and as agreed by the Parties, voluntarily provide additional ducts, conduits, fiber optic cable, appurtenances, or other in-kind facilities or services, as necessary for the County to provide services for the benefit of the public.

## **FACILITY OWNERSHIP AND USE**

### Section 17. Transfer and Assignment

17.1 This Franchise may not be transferred, assigned, leased, sold, partitioned, disposed of, or otherwise subject to a change in the identity of Franchisee (each such activity, a "Transfer") in whole or in part, in any manner, without the prior written approval of the County, which will not be unreasonably withheld. The Director is authorized on behalf of the County to grant or withhold consent. If a Transfer of the Franchise is approved, the transferee must agree in writing to be bound by each and every provision, condition, regulation, and requirement contained in this Franchise and Franchisee shall not be relieved of any duty or obligation under this Franchise until a complete and sufficient Transfer instrument, including but not limited to an amendment to this Franchise, is approved and executed by the County.

17.2 In the case of an assignment of this Franchise to secure indebtedness, whether by mortgage or other security instrument, the County's consent shall not be required unless and until the secured party elects to realize upon the collateral. Franchisee shall provide prompt, written notice to the County of any assignment to secure indebtedness.

17.3 In the event Franchisee desires to transfer ownership of Facilities, such transfer shall be arranged and accomplished consistent with a written agreement between the County and the transferee, binding the transferee to compliance with all terms and conditions applicable to the transferee's use and occupancy of the County ROW. Facilities that are out of compliance with the Road Standards may not be transferred unless and until they are brought into compliance.

17.4 Transfer of the Franchise or Facilities in violation of this Section 17 shall constitute a Default.

## **INDEMNIFICATION, LIABILITY, AND INSURANCE**

### Section 18. Hold Harmless and Indemnification

18.1 Franchisee agrees to release, indemnify, defend (at the County's option and using counsel reasonably acceptable to the County), and hold harmless all County Parties from and against any and all claims, demands, liability, suits, and judgments, including costs of defense thereof, awards, penalties, fines, costs, government orders, or other requirements, (collectively, "Claims") to the extent caused by, arising out of, incidental to, or related to the acts or omissions of Franchisee Parties or Contractors in connection with Franchisee's exercise of rights and obligations under this Franchise. This covenant of release and indemnification shall include, but not be limited to: any and all Claims arising out of the placement of Facilities; any failure by Franchisee Parties or a Contractor to complete all related Construction, Maintenance, Operations, or any work or other activities in accordance with this Franchise; and fire suppression activities during fire events. In the event it is determined that RCW 4.24.115 applies to this Franchise, Franchisee agrees to defend, hold harmless, and indemnify all County Parties to the maximum extent permitted thereunder. Provided, however, that if a Claim arises out of or relates to the concurrent negligence of the Parties, then Franchisee's duties under this Section 18.1 shall apply only to the extent of the negligence of Franchisee Parties and Contractors. This Section 18.1 shall not apply to any Claim or other matters arising out of or related to any Release of Hazardous Materials, which Releases are addressed under Section 30 of this Franchise.

18.2 In the event any County Party incurs reasonable attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 18 against Franchisee, all such fees, expenses, and costs shall be recoverable from Franchisee. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

18.3 Franchisee's obligations described in 18.1 above include the duty to defend and indemnify all County Parties from any claims, demands, or suits brought by, or on behalf of, any employee, former employee, or agent of Franchisee, or any Contractor. To the extent necessary to carry out this obligation, Franchisee, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects County Parties only, under any industrial insurance act or workers' compensation law, including without limitation RCW Title 51, other workers' compensation act, disability act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. The Parties acknowledge that this provision was mutually negotiated.

18.4 Franchisee's covenants and indemnifications provided in this Section 18 shall extend to the period of time during which Franchisee occupied the Franchise Area in a Holdover Period after expiration of the term of any preceding franchise.

18.5 The County shall give Franchisee timely written notice of any Claim covered by Franchisee's obligations under this Section 18. In the event any such Claim arises, the County or any other indemnified party shall tender the defense thereof to Franchisee and Franchisee shall have the right and duty to defend, settle, or compromise any Claim, and the County shall cooperate fully with Franchisee, provided: (A) any settlement or compromise is consistent with the terms of this Franchise; and (B) any terms or conditions of a settlement, other than the payment of money damages, that in any way obligate or affect the County shall require the County's prior approval.

18.6 The County's permitting, approval, inspection, lack of inspection, or acceptance or rejection of any Construction, Maintenance, Operations, or any work or other activities associated with this Franchise, whether pursuant to this Franchise or pursuant to any other permit or approval issued by the County in connection with Franchisee's exercise of its rights under this Franchise, shall not relieve Franchisee of any of the indemnification, defense, and hold harmless obligations contained in this Section 18.

#### Section 19. Franchise Administration

The County's administration of this Franchise shall not be construed to create a basis for any liability on the part of County Parties.

#### Section 20. Insurance Requirements

20.1 Franchisee shall procure and maintain for the duration of this Franchise (the Initial Term and any extensions of the Initial Term) and any Holdover Period thereafter, insurance against claims for injuries to persons or damage to property which may arise from, or in connection with any Construction, Maintenance, Operations, and any work or other activities contemplated by Franchisee or Contractor. Upon request of the County, Franchisee shall furnish separate certificates of insurance and policy endorsements from each Contractor as evidence of compliance with the insurance requirements of this Franchise.

20.2 Franchisee is responsible for ensuring compliance with all the insurance requirements stated herein. Failure by Franchisee or a Contractor to comply with the insurance requirements stated herein shall constitute a Default of this Franchise.

20.3 Each insurance policy shall be written on an "occurrence" basis/form; excepting insurance for professional liability (errors and omissions) and/or pollution liability. Professional liability (errors and omissions) or pollution liability required by this Franchise is acceptable on a "claims made" basis/form. If any insurance required under this Franchise is purchased on a "claims made" basis/form, the coverage provided under that insurance shall be maintained through:

(i) consecutive policy renewals for not less than three (3) years from the date of completion of the Construction, Maintenance, Operations, and any work or other activities associated with this Franchise or, if such renewals are unavailable, (ii) the purchase of a tail/extended reporting period for not less than three (3) years from the date of completion of the Construction, Maintenance,

Operations, and any work or other activities associated with this Franchise. All insurance written on a “claims made” basis/form must have its policy inception or retroactive date be no later than the Effective Date of the Franchise, unless otherwise approved in writing by the County’s Risk Management Office.

20.4 Nothing contained within these insurance requirements shall be deemed to limit the scope, application, and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained in this provision shall affect and/or alter the application of any other provision contained within this Franchise.

20.5 **Risk Assessment by Franchisee:** By requiring such minimum insurance, the County does not and shall not be deemed or construed to have assessed the risks that may be applicable to Franchisee or a Contractor under this Franchise, or in any way limit County’s potential recovery to insurance limits required hereunder. To the contrary, this Franchise’s insurance requirements may not in any way be construed as limiting any potential liability to the County or the County’s potential recovery from Franchisee or a Contractor. Franchisee and its Contractor(s) shall assess their own risks and if they deem appropriate and/or prudent, maintain greater limits and/or broader coverage.

20.6 **Minimum Scope and Limits of Insurance**

Coverage shall be at least as broad as and with limits not less than the following:

(A) General Liability:

\$5,000,000 per occurrence and \$5,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, products- completed operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for the County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability:

\$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 0 1 covering business auto coverage, symbol 1 “any auto”; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Pollution Liability:

Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead or PCBs are a

potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(D) Workers Compensation:

Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or "Other States" state law, or the statutory requirements of the state of residency.

(E) Employers Liability or "Stop Gap":

Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification protection provided by the Workers' Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy.

**20.7 Minimum Limits of Insurance - Construction Period:** Prior to commencement of Construction and until Construction is complete and approved by the Parties, Franchisee shall cause its Contractor(s) to procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the activities related to this Franchise. Franchisee, the County, and the County's elected and appointed officials, employees, and agents shall be named as additional insured, for full coverage and policy limits, on liability policies except Workers' Compensation and Professional Liability.

The County is not responsible for payment of the cost of such insurance. Franchisee's Contractor(s) shall maintain coverage and limits no less than the following:

(A) Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 in the aggregate for bodily injury, personal and advertising injury, and property damage. Coverage shall be at least as broad as that afforded under ISO form number CG 00 01. Such insurance shall include coverage for, but not limited to, premises liability, Products-Completed Operations, ongoing operations, and contractual liability. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy and satisfy all other requirements applicable to liability insurance including but not limited to additional insured status for County. Explosion & Collapse, Underground Damage (XCU) shall apply for the same limits as the General Liability coverage.

(B) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as that afforded under ISO form number CA 00 0 1 covering business auto coverage, symbol 1 "any auto"; or the appropriate coverage provided by symbols 2, 7, 8, or 9. Limits may be satisfied by a single primary limit or by a combination of separate primary and umbrella or excess liability policies, provided that coverage under the latter shall be at least as broad as that afforded under the primary policy.

(C) Professional Liability (Errors & Omissions): In the event that services delivered pursuant to this Franchise either directly or indirectly involve or require professional services, Professional Liability (Errors & Omissions) coverage shall be provided with

minimum limits of \$1,000,000, per claim and in the aggregate.

(D) **Contractor’s Pollution Liability Coverage:** Coverage in an amount no less than \$1,000,000 per occurrence/claim and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage, to include the destruction of tangible property, loss of use, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed. If asbestos, lead, or PCBs are a potential exposure, such insurance shall not exclude pollution arising out of asbestos, lead and/or PCB operations.

(E) **Workers’ Compensation:** Workers Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable federal or “Other States” state law, or the statutory requirements of the state of residency.

(F) **Employers Liability or “Stop Gap”:** Coverage with minimum limits of \$1,000,000 each occurrence and shall be at least as broad as the indemnification provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the “Stop Gap” endorsement to the general liability policy.

**20.8 Deductibles and Self-Insured Retentions:** Any deductible and/or self-insured retention of the policy(s) shall not in any way limit County’s right to coverage under the required insurance, or to Franchisee’s or any Contractor’s liability to the County, and shall in all instances be the sole responsibility of Franchisee and its Contractor(s), even if no claim has actually been made or asserted against Franchisee or Contractor(s).

**20.9 Other Insurance Provisions:** The insurance policies required in this Franchise shall contain, or be endorsed to contain, the following provisions:

(A) All Liability Policies except Professional Liability (Errors and Omissions) and Workers Compensation.

1. The County and its elected and appointed officials, agents, and employees shall be covered as additional insured, for full coverage and policy limits, as respects liability arising out of ongoing and completed work, or other activities performed by or on behalf of Franchisee or its agents, representatives, employees, or Contractor(s) in connection with this Franchise. Additional insured status shall include Products-Completed Operations.

(B) With respect to all liability policies (except Workers Compensation):

1. Coverage shall be primary insurance as respects the County, its officials, employees, and agents. Any insurance and/or self-insurance maintained by the County, its officials, employees, or agents shall not contribute with the Franchisee’s or any Contractor’s insurance or benefit the Franchisee or Contractor, or their respective insurers in any way.

2. Insurance shall expressly state that it applies separately to each insured and additional insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer’s liability.

- (C) **All Policies:** Coverage shall not be suspended, voided, canceled, or materially changed until after thirty (30) days' prior written notice has been given to the County. In the event of said cancellation or intent not to renew, Franchisee shall obtain and furnish to the County evidence of replacement insurance policies meeting the requirements of this Section 20 by the cancellation date. Failure to provide proof of insurance could result in revocation or termination of the Franchise.

20.10 **Acceptability of Insurers:** Unless otherwise approved by the County, insurance is to be placed with insurers with an A.M. Best rating of no less than A:VII, or, if not rated with A.M. Best, with minimum surpluses the equivalent of A.M. Best surplus size VIII. Professional Liability, Errors, and Omissions insurance may be placed with insurers with an A.M. Best rating of B:VII. Any exception must be approved by the County's Office of Risk Management Services. If, at any time, the foregoing policies shall fail to meet the above requirements, Franchisee shall promptly obtain a new policy, and shall submit the same, with appropriate certificates and endorsements, to the County.

20.11 **Verification of Coverage:** Prior to the execution of this Franchise, Franchisee shall furnish the County with certificates of insurance and endorsements certifying the issuance of all insurance required by this Franchise. All evidence of insurance shall be signed by a properly authorized officer, agent, general agent or qualified representative of the insurer(s), shall set forth the name of the insured(s), the type and amount of insurance, the location and operations to which the insurance applies, the inception and expiration dates, and shall specify the form number of any endorsements issued to satisfy this Franchise's insurance requirements.

Upon request of the County, and within five (5) business days, Franchisee must provide copies of any renewal certificates of insurance and endorsements. In the event of a claim, Franchisee must provide complete copies of all required insurance policies, which may be redacted of confidential or proprietary information.

The County's receipt or acceptance of Franchisee's or its Contractor's evidence of insurance at any time without comment or objection, or the County's failure to request certified copies of such insurance, does not waive, alter, modify, or invalidate any of the insurance requirements set forth in this Section 20 or, consequently, constitute County's acceptance of the adequacy of Franchisee's or any Contractor's insurance or preclude or prevent any action by County against Franchisee for breach of the requirements of this Section 20.

20.12 **Contractors:** Franchisee shall include all Contractors as insured under its policies or, alternatively, Franchisee must require each of its Contractors to procure and maintain appropriate and reasonable insurance coverage and insurance limits to cover each of the Contractor's liabilities given the scope of work and the services being provided herein. All liability insurance policies (except Professional Liability and Workers Compensation) provided by the Contractor(s) must name the County and its elected and appointed officials, employees, and agents as additional insured, for full coverage and policy limits. Franchisee is obligated to require and verify that all Contractors maintain insurance and ensure that the County is covered as additional insured. Upon request by the County, and within five (5) business days, Franchisee must provide evidence of Contractor(s) Insurance coverage (including endorsements).

20.13 **Insurance Review:** In consideration of the duration of this Franchise, the Parties agree that the Insurance Section herein, at the discretion of the County Risk Manager, may be reviewed and reasonably adjusted with each amendment and within ninety (90) days of the end of the first five (5) year period of the term of this Franchise and the end of each successive five (5) year period thereafter. Any adjustments made as determined by the County Risk Manager, shall be in accordance with reasonably prudent risk management practices and insurance industry standards and shall be effective on the first day of each successive five (5) year period.

Adjustment, if any, in insurance premium(s) shall be the responsibility of Franchisee. Any failure by the County to exercise the right to review and adjust at any of the aforementioned timings shall not constitute a waiver of future review and adjustment timings.

20.14 Franchisee shall furnish the County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of Franchisee or its Contractor(s) before commencement of any Construction, Maintenance, Operations, or any work or any other activities associated with this Franchise.

20.15 In satisfaction of the insurance requirements set forth in this Section 20, Franchisee may maintain a fully-funded self-insurance program for its liability exposures in this Franchise, which is consistent with good utility practice. Franchisee agrees to provide the County with at least thirty (30) days' prior written notice of any material change in Franchisee's self-funded insurance program and will provide a letter of self-insurance as adequate proof of coverage. If Franchisee decides to no longer maintain a self-insurance program for its liabilities, Franchisee must promptly notify the County and provide certificates of insurance and corresponding endorsements evidencing the insurance requirements in this Franchise have been satisfied.

#### Section 21. Performance Bond

If the County deems as necessary, the Franchisee shall, on or before the Effective Date of this Franchise, or during the term of this Franchise [if a performance bond was not previously required], furnish a bond executed by Franchisee with a corporate surety authorized to do surety business in the State of Washington, with an AM Best's rating of an A: XII in the amount determined suitable by the County to ensure the faithful performance of Franchisee's obligations under this Franchise. The bond shall stipulate that Franchisee shall comply with all of Franchisee's obligations under this Franchise. Franchisee shall pay all premiums or costs associated with maintaining the performance bond and shall keep the same in full force and effect at all times during the term of this Franchise and any extension thereof. If Franchisee fails to provide or maintain the bond, then the County may require Franchisee to substitute an equivalent cash deposit in lieu of the bond. With written notice the County, in its sole discretion, may allow Franchisee to cancel this performance bond. Nothing in this agreement shall compel the County to cancel this bond.

### **WORKING IN THE RIGHT OF WAY**

#### Section 22. Right-of-Way Construction Permit Required

22.1 Franchisee Parties shall not commence any Construction or Maintenance work within the Franchise Area until an applicable construction permit authorizing such work has been issued pursuant to KCC 14.44, except as provided in Section 23 of this Franchise. Applications for construction permits shall be presented to the King County Real Estate Services Section (“RES”) along with such detailed design and Construction plans and documents, studies, and reports as are required by RES. Franchisee shall provide a bond if required by the County (in a form approved by the County) prior to permit issuance. Any bond(s) required under this Section 22 shall be separate from any performance bond required under Section 21.

22.2 Any and all work performed by Franchisee Parties or on behalf of Franchisee pursuant to this Franchise shall be performed in accordance with all County standards applicable at the time of such work, including but not limited to the King County Comprehensive Plan, the King County Regulations for Accommodation of Public Utilities on County ROW, the Road Standards, the County approved plans and specifications for the work, and the terms and conditions of any ROW construction permit and other permits or approvals required under the King County Code. All Facilities and all Construction or Maintenance shall be the responsibility of Franchisee and the County hereby disclaims any duty or obligation regarding the same. All permits for Construction or Maintenance shall be applied for and issued in the name of Franchisee, and Franchisee shall be responsible for all work done under the permit, regardless of who performs the work.

22.3 Franchisee Parties and Contractors shall comply with any and all conditions contained in applicable permits or approvals.

### Section 23. Emergency Work

23.1. If Facilities become damaged or nonoperational such that an Emergency is presented, or if Franchisee or any Contractor carries out Construction or Maintenance in a manner that creates an Emergency, then Franchisee shall immediately take such measures as are reasonably necessary to repair the Facilities at issue or to remedy the Emergency. In the event of an Emergency as described above, Franchisee may take corrective action immediately, without first applying for or obtaining an ROW construction permit. However, the need to take immediate corrective action shall not relieve Franchisee from its obligation to notify the County and to obtain an ROW construction permit or any other permits necessary for the corrective actions. In the event of any Emergency, whether described in this Section 23 or otherwise, Franchisee shall, upon discovery of the Emergency, immediately notify the County of the Emergency via email to both the Road Services Division ([KCUIU@kingcounty.gov](mailto:KCUIU@kingcounty.gov)) and the Real Estate Services Section ([Res.permits@kingcounty.gov](mailto:Res.permits@kingcounty.gov)), with a copy to the KCIT Cable Office ([CableOffice@kingcounty.gov](mailto:CableOffice@kingcounty.gov)). ROW construction permit applications must be submitted as soon as reasonably feasible, yet no later than one (1) full working day after Franchisee discovers the Emergency. In the event of a dispute, Franchisee shall bear the burden to prove (i) that the County received such notice and (ii) when the County received such notice.

23.2 If the County discovers or is alerted by a third party of an Emergency involving the Facilities, the County will first make a good faith effort, considering the urgency of the circumstances, to contact Franchisee to allow Franchisee to remedy the Emergency. If the County is unable to contact Franchisee or Franchisee is unable to remedy the Emergency in a timely manner, the County may take corrective action, and Franchisee shall reimburse the County for any and all documented direct costs and expenses incurred by the County. Such costs and expenses shall include, but not be limited to Franchisee's proportionate share of the costs of County

personnel assigned to review emergency corrective action plans or to oversee or engage in any corrective action as a result of the Emergency.

#### Section 24. Compliance with Laws; Performance Standards

24.1 Franchisee Parties shall at all times comply with all Laws including Environmental Laws, any applicable Washington Utilities and Transportation Committee (“WUTC”) settlement agreements, and Utility standards including, but not limited to, the County’s Comprehensive Plan, zoning code, and any development regulations that are applicable to any and all work or other activities performed by Franchisee Parties pursuant to or under authority of this Franchise.

24.2 Construction or Maintenance shall not unreasonably impede: (A) public use of the County ROW or associated road(s) for vehicular and pedestrian transportation; (B) construction or maintenance activities by other authorized users of the Franchise Area or County ROW, or access to or use of their facilities; (C) the operation, maintenance, or improvement by the County of any County ROW, or other public property impacted by the Construction or Maintenance; or (D) the use of the Franchise Area or County ROW for other governmental purposes. Construction or Maintenance shall comply with all permit conditions or other requirements.

24.3 During any periods of Construction or Maintenance, Franchisee Parties shall at all times post and maintain proper barricades and comply with all applicable safety regulations as required by Laws, including, but not limited to RCW 39.04.180 for the construction of trench safety systems.

24.4 Before a Franchisee Party commences any work under this Franchise which may disturb any existing monuments or markers relating to subdivisions, plats, roads, or surveys, the Franchisee Party shall have a Washington State Professional Land Surveyor locate and reference all such monuments and markers consistent with RCW 58.09.130 and a permit shall be obtained (if required) from the Washington State Department of Natural Resources prior to the commencement of work pursuant to WAC 332-120. The replacement of all such monuments or markers disturbed by a Franchisee Party shall be the responsibility of Franchisee, at no cost to the County.

24.5 If a Franchisee Party plans to make excavations in the Franchise Area, Franchisee shall, upon receipt of a written request to do so, provide an opportunity for the County and/or other authorized users of the applicable County ROW to participate in such excavation, and shall coordinate such participation with the County or any such other authorized users; provided that, Franchisee need not permit the County or any other party to participate in an excavation if any of the following are true, in the reasonable judgment of the County Road Engineer, in consultation with Franchisee:

(A) such joint excavation would unreasonably delay the performance of Franchisee’s work; or

(B) despite good-faith efforts, the parties involved are unable to agree upon reasonable terms and conditions for accomplishing such joint excavation; or

(C) valid safety reasons exist for denying a request for such joint excavation or installation of proposed facilities of another party would be in conflict with the best practices employed by Franchisee; or

(D) the excavation is for the purpose of an Emergency consistent with Section 23 of this Franchise.

24.6 Franchisee shall maintain all Facilities in a good state of repair. Franchisee shall, at no expense to the County, promptly repair Facilities, including all appurtenant facilities and service lines connecting Franchisee's system to users, if the repair is required by the County for any reasonable purpose.

24.7 Franchisee shall maintain a reasonably clear area, not less than five (5) feet, around all Facilities permitted and installed above ground so they will be clearly visible for purposes of County operations and maintenance. If Franchisee intends to use chemical sprays to control or kill weeds and brush, then Franchisee must first obtain an ROW construction permit. The County may limit or restrict the types, amounts, and timing of application if a significant negative impact on the aesthetics or environment of the area is anticipated, provided such limitations or restrictions are not in conflict with State law governing utility ROW maintenance and the King County Code related to sensitive areas.

#### Section 25. Restoration of the County ROW

Promptly after completing any work within the County ROW, including, but not limited to, any Construction, Franchisee shall, at no cost to the County, restore the surface of the County ROW and any adjacent areas directly affected by a Franchisee Party's work to as good or better condition as such areas were in immediately prior to the commencement of such work, consistent with the County's regulations for accommodation of utilities on county road rights-of-way, adopted in KCC 14.44.060, and any restoration conditions contained in applicable permits or approvals. The County Road Engineer shall have final authority to determine the adequacy of the restoration performed in accordance with the requirements set forth herein.

#### Section 26. Maps and Records

26.1 Franchisee shall maintain accurate records to document activities performed pursuant to this Franchise for six (6) years following the expiration, revocation, or termination of this Franchise, or any Holdover Period, whichever is later. Required records include the following:

(A) records of Construction, Maintenance, Operation, inspections, and regulatory compliance for all Facilities subject to this Franchise; and,

(B) as-built plans or, when as-built plans are not available, 100% design drawings as modified following construction, maps, GPS charts, and any other records depicting the final locations and conditions of Facilities ("As-Built Plans").

26.2 The County shall have the right to review such records or to request copies of such records, which Franchisee shall provide at no cost to the County. If a discrepancy is discovered in its As-Built Plans, Franchisee shall update its records to correct the discrepancy. With respect to any excavations within the Franchise Area undertaken by or on behalf of Franchisee or the County, nothing herein is intended (nor shall be construed) to relieve either Party of its obligations under RCW 19.122 with respect to determining the location of utility facilities.

26.3 If Franchisee considers any portion of its records provided to the County to be protected from disclosure under law, Franchisee shall clearly identify any specific information that it claims to be confidential or proprietary and the basis for such claim. If the County receives a request under the Public Records Act, RCW 42.56 (“PRA”), to inspect or copy the information so identified by Franchisee and the County determines that release of the information is required by the PRA or is otherwise appropriate, the County's sole obligations shall be to notify Franchisee in writing (A) of the request and (B) of the date that such information will be released to the requestor unless Franchisee obtains a court order to enjoin disclosure under RCW 42.56.540. The County shall provide Franchisee with such notice at least ten (10) days prior to the date that such information will be released. If Franchisee fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section 26.3 assumes, no obligation on behalf of Franchisee to claim or make any exemption from disclosure under the PRA. The County shall not be liable to Franchisee for releasing records not clearly identified by Franchisee as confidential or proprietary. The County shall not be liable to Franchisee for any records that the County releases in compliance with this Section 26.3 or in compliance with an order of a court of competent jurisdiction.

#### Section 27. Relocation of Facilities

27.1 Franchisee shall be responsible, at no expense to the County, to repair, remove, relocate, or adjust all Facilities if such, repair, removal, relocation, or adjustment is required by the County for any purpose.

27.2 If an Emergency requires the relocation of Facilities, the County shall give Franchisee notice of the Emergency as soon as reasonably practicable. Upon receipt of such notice from the County, Franchisee shall respond as soon as reasonably practicable to relocate the affected Facilities.

27.3 Upon request by the County and in order to facilitate the design and construction of any County improvements in the Franchise Area or County ROW, Franchisee shall locate and, if the County deems it reasonably necessary, excavate and expose, at Franchisee’s sole cost and expense, Facilities for inspection by the County; provided that Franchisee shall not be required to excavate and expose Facilities for inspection unless the County Road Engineer reasonably determines that Franchisee's record plans and record drawings are inadequate for the County's planning purposes. The decision to require relocation of any Facilities in order to accommodate County improvements shall be made by the County Road Engineer in their sole and absolute discretion upon review of the location and construction of Facilities.

27.4 In the event a condition or requirement imposed by the County upon any person or entity other than County Parties (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permits for zoning, land use,

construction, or development) reasonably necessitates adjustment, modification, relocation, or removal of any Facilities, then Franchisee shall adjust, modify, relocate, or remove such Facilities to accommodate such condition or requirement imposed by the County, at no cost to the County; provided that nothing in this Franchise is intended or shall be construed to prohibit Franchisee from assessing on such other person or entity the costs of adjustment, modification, relocation or removal as a condition of such action pursuant to this Section 27.

27.5 If the County determines that a County capital improvement project necessitates adjustment, modification, relocation, or removal of Facilities, then:

(A) The County shall provide Franchisee reasonable written notice consistent with Section 27.5(B) of this Franchise prior to the commencement of the construction phase of the County project at issue; PROVIDED, that under the following circumstances the County need only provide the Franchisee with written notice as soon as may be reasonably practicable: (a) in the event of an Emergency; (b) in the event of an Emergency beyond the control of the County and which will result in adverse financial consequences to the County; or (c) where the need to relocate the Facilities could not reasonably have been anticipated by the County.

(B) The County shall provide Franchisee with copies of pertinent portions of the plans and specifications for the County project as well as any proposed new location for the Facilities at least ninety (90) days prior to the commencement of the construction phase of the County project to enable Franchisee to promptly relocate such Facilities.

(C) After receipt of such notice and such plans and specifications, unless the Parties agree otherwise, Franchisee shall complete relocation of Facilities within the County ROW at least ten (10) days prior to commencement of the construction phase of the County project at no charge, cost, or expense to the County. In the event of an Emergency, Franchisee shall relocate the Facilities at issue within a time period reasonably specified by the County Road Engineer.

(D) If Franchisee determines that relocation cannot reasonably be completed within the time period provided by the County, Franchisee shall propose a revised schedule to the County for completion of such relocation work. If the County and Franchisee agree upon a schedule to relocate Facilities, Franchisee shall complete the relocation of Facilities in accordance with the agreed upon schedule. If the County and Franchisee are unable to agree upon a relocation schedule, Franchisee shall relocate Facilities according to a schedule reasonably established by the County.

(E) Unless the Parties agree otherwise, if Franchisee fails to complete adjustment, modification, relocation, or removal of Facilities within the time prescribed and to the County's satisfaction, the County may cause such work to be done and bill the cost of the work to Franchisee. Franchisee shall remit payment to the County within thirty (30) days of receipt of an itemized list of associated costs.

(F) Franchisee shall also be responsible for ensuring that all Colocator facilities are relocated contemporaneously with Facilities. If relocation of Facilities, including Colocator facilities is not completed in a timely fashion pursuant to this Section 27.5,

Franchisee shall bear any and all relocation and delay costs incurred by the County, except for the duration of a Force Majeure event. Force Majeure shall mean landslides, earthquakes, lightning, fires, hurricanes, volcanic activity, storms, floods, civil disturbances, acts of terrorism, or other similar events which are not reasonably within the control of the Parties.

27.6 When the County or its contractor provides notice to Franchisee, in accordance with RCW Chapter 19.122, of its intent to excavate in the Franchise Area or County ROW, Franchisee shall, at no expense to the County, provide the County or its contractor the best information available from Franchisee's records or, where reasonable, from the use of locating equipment as to the location of Facilities, as well as to the location of facilities connected to its system that are in the Franchise Area and that Franchisee does not own, including appurtenant facilities and service lines connecting its system to users. Franchisee shall mark the surface where surface marking would reasonably be of use in the excavation. If Franchisee fails to make good faith efforts to provide the information required in this Section 27.6 within the deadlines provided by RCW Chapter 19.122, Franchisee shall defend, indemnify, and hold the County harmless for all claims and reasonable costs that result from damage to Facilities or other connected facilities if the damage occurs as a result of Franchisee's failure to provide the information. Nothing in this Section 27.6 is intended or shall be construed to create any rights in any third party or to form the basis for any obligation or liability on the part of the County or Franchisee toward any third party, nor is anything in this Section 27.6 intended or to be construed to alter the rights and responsibilities of the Parties under RCW Chapter 19.122, as amended.

27.7 Nothing in this Franchise shall prevent Franchisee from imposing reasonable terms when responding to a request for relocation of any Facilities by any person or entity other than the County, where the facilities to be constructed by said person or entity are not or will not become County-owned, operated or maintained facilities and the relocation is not subject to the provisions of Section 27.4.

#### Section 28. Use of Facilities by Colocators; Third-Party Facilities

28.1 Franchisee may contract for use of Facilities in the Franchise Area by a Colocator with prior written consent of the County, which consent will not be unreasonably withheld. Use of Facilities by a Colocator shall be conditioned on the following: 1) the Facilities must be in compliance with the Road Standards; and 2) the Colocator must have a valid franchise, ROW Use Agreement, or other County authorization for use of the County ROW. Franchisee shall require any Colocator requesting use of Facilities to provide documentation of County authorization to occupy the County ROW. In the event a Colocator does not provide such documentation, Franchisee shall notify the County of the Colocator's request and shall suspend processing such request until documentation of County authorization is provided. In addition, Franchisee shall be responsible for requiring all Colocators to comply with all applicable provisions of this Franchise. Franchisee shall not allow a third party other than a Colocator to use Facilities.

28.2 Transfer of ownership of any Facilities to a Colocator shall be subject to the County's prior written consent, such consent not to be unreasonably withheld, and a written agreement between the County and the Colocator, binding the Colocator to compliance with all applicable terms and conditions of this Franchise.

28.3 In the event Franchisee allows Colocators to utilize Facilities in the future, then Franchisee shall provide the County with a list of all Colocators using Facilities in the County ROW. Such list shall be submitted to the County annually, by January 31st throughout the term of this Franchise and any extension thereof.

28.4 Transfer of this Franchise or use of Facilities in violation of this Section 28 shall constitute a Default of the Franchise.

28.5 If Franchisee performs work or repairs on Colocator-owned or other third-party-owned facilities located in the County ROW and connected to Franchisee's own Facilities, then Franchisee shall comply with the terms and conditions of this Franchise.

#### Section 29. Roadside Management Program

29.1 Within **ninety (90) days** following the Effective Date, Franchisee shall submit a Roadside Management Assessment ("RMA") to the County which includes an assessment of whether its Facilities are all located underground, or, if some or all of its facilities are located above-ground, and whether the Facilities comply with the Road Standards, including but not limited to Section 5.10, Roadside Obstacles. If, after preparing the RMA, Franchisee concludes that all Facilities are located underground (or, if it has Facilities located above-ground, Franchisee concludes that those Facilities comply with the Road Standards), then Franchisee shall certify this finding in an RMA to the County Road Engineer.

29.2 If after completing an RMA Franchisee concludes that it has above-ground Facilities that are not in compliance with the Road Standards, then Franchisee shall carry out a program acceptable to the County for Franchisee, at its sole cost and expense, to remove or relocate its non-compliant Facilities to bring them into compliance with the Road Standards. Franchisee shall submit a Roadside Management Program to the County within one hundred twenty (120) days following the Effective Date. Once Franchisee's RMP is approved by the County, then Franchisee shall schedule and carry out the RMP in cooperation with the County. Franchisee shall submit an annual Roadside Management Program Work Plan identifying specific remediation project to be accomplished during that year and an annual Roadside Management Program Work Report, showing the progress of remediation projects accomplished during the preceding year. The RMP Work Plan and the RMP Work Report shall both be due to the County by January 31st of every year of this Franchise, until such time that all Facilities identified in the plan have been remediated and brought into compliance with the Road Standards.

29.3 If Franchisee installs or acquires above-ground Facilities at any time after Franchisee has previously certified that all its Facilities were located underground, then Franchisee must immediately update its RMA described in Section 29.1 as to whether the above-ground Facilities comply with the Road Standards and submit the updated RMA to the County Road Engineer. If Franchisee concludes that the above-ground Facilities comply with the Road Standards, then Franchisee shall so certify to the County as required under Section 29.1. If Franchisee determines that the above-ground Facilities do not comply with the Road Standards, then Franchisee shall carry out a remediation program consistent with Section 29.2.

## Section 30. Hazardous Materials

30.1 Franchisee may use Authorized Hazardous Materials in the Franchise Area; provided that Franchisee's use of Authorized Hazardous Materials in the Franchise Area shall at all times be undertaken in strict compliance with all Environmental Laws. Franchisee and Contractors shall not cause or contribute to a Release, in any manner, through act or omission.

30.2 If a Release occurs or if Franchisee or a Contractor discovers any Hazardous Material(s), then Franchisee shall immediately or as soon thereafter as reasonably possible (but in no event later than the next business day) provide written notice of the Release or Hazardous Material(s) to the County by email to the Real Estate Services Section ([RES.permits@kingcounty.gov](mailto:RES.permits@kingcounty.gov)), and the Road Services Division ([KCUIU@kingcounty.gov](mailto:KCUIU@kingcounty.gov)), with a copy to the KCIT Cable Office ([CableOffice@kingcounty.gov](mailto:CableOffice@kingcounty.gov)), and provide notice to any affected property owner, and if required by Environmental Laws, to the Washington State Department of Ecology and other government entities.

30.3 The County shall not be liable to Franchisee or a Contractor for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with a Release under Franchisee's exercise of this Franchise and Franchisee hereby releases the County from any such claims. Franchisee shall be responsible, at no cost to the County, for promptly remediating any and all Releases within the Franchise Area, during any time period in which Franchisee had Facilities within the Franchise Area. Franchisee is also responsible for remediating any Releases that migrated from the Franchise Area to property outside the Franchise Area. At a minimum, Releases shall be remediated to the applicable cleanup standards under Environmental Laws that will allow for unrestricted use of the Franchise Area, or adjacent property with no environmental covenant or other deed restriction required to be recorded. The County shall review and approve of any remediation plan prior to implementation; however, Franchisee shall be entitled to respond immediately to an Emergency without prior approval from County, including but not limited to taking actions necessary to prevent the Release from migrating, leaching, or otherwise spreading, and taking actions necessary to respond to any immediate obligations imposed on Franchisee by Environmental Laws. Franchisee shall cooperate in any environmental investigations conducted by or at the direction of the County or any state, federal, or local agency with jurisdiction where there is evidence of contamination in the Franchise Area, or where otherwise incidental to Franchisee's exercise of this Franchise, or where the County is directed to conduct such investigation by an agency or agencies having jurisdiction. Franchisee shall, at its sole cost and expense, timely prepare and submit any reports or communications relating to any remediation actions as required by Environmental Laws. Franchisee shall provide the County with copies of all reports, sampling data, and communications to and from government entities concerning Franchisee's remediation actions taken under this Section 30.3.

Notwithstanding Franchisee's obligation to completely remediate the Franchise Area and any property outside the Franchise Area to which a Release migrated, in the event of any Release, the County may, in the interest of protecting the health, safety, welfare, and property of the public, immediately take whatever actions it deems necessary or advisable, in its sole discretion, to investigate, contain, or otherwise remediate the Release at issue. The County shall be entitled to

reimbursement from Franchisee of any and all costs and expenses incurred by the County under this Section 30.3. Franchisee's reimbursement shall be due upon receipt of the County's invoice for such costs and expenses.

30.4 Franchisee shall address all Hazardous Materials encountered in conducting actions authorized under this Franchise in full compliance with Environmental Laws, including but not limited to the excavation, stockpiling, transportation, and disposal of those materials, at no cost to the County. The County shall not be liable for any damages, costs, losses, expenses, penalties, or liabilities arising out of or connected with the presence of Hazardous Materials and Franchisee hereby releases the County from any such claims. Franchisee shall conduct actions in the Franchisee Area in a manner that does not cause migration or other exacerbation of the Hazardous Materials. Before carrying out activities that might disturb Hazardous Materials, Franchisee shall contact the County regarding the proposed activity. The County reserves the right to propose alternatives to Franchisee that would not require Franchisee to disturb the Hazardous Materials. Franchisee is not required to remove or otherwise remediate any Hazardous Materials except to the extent necessary to conduct actions authorized under this Franchise or to the extent necessary to remediate any migration or other exacerbation of Hazardous Materials caused by Franchisee. Franchisee shall at no cost to the County, timely prepare and submit any reports or communications required by Environmental Laws concerning any actions under this Section 30.4, and Franchisee shall provide the County with copies of such reports or communications. Franchisee shall also provide the County documentation or other information concerning Franchisee's actions concerning Hazardous Materials that is not submitted to government entities. Nothing in this Franchise shall be construed as limiting Franchisee's ability to pursue the recovery of remedial action costs incurred for excavation, stockpiling, transportation, and disposal of Hazardous Materials from parties other than County Parties.

30.5 Franchisee hereby releases each County Party from, and shall indemnify, defend (at the County's option and using counsel acceptable to the County), and hold each County Party harmless from and against, any and all claims, liabilities, lawsuits, actions, judgments, awards, penalties, administrative proceedings, government orders, fines, expenses, costs (including but not limited to removal, remedial action, or other costs recoverable under CERCLA or MTCA), any and all other requirements, charges, interest, fees, or oversight costs, and all other damages (including, but not limited to, reasonable attorneys' fees and costs) (collectively, "Environmental Claims") incurred or suffered by the County or any County Party and arising out of or related to: (A) any Release within the Franchise Area, including Releases that may migrate from the Franchise Area to property outside the Franchise Area; (B) the acts or omissions of Franchisee or Contractors under this Franchise; and (C) costs of compliance incurred in connection with any Environmental Claim, investigation or other action under Environmental Laws pursuant to Franchisee's exercise of this Franchise.

30.6 If any County Party incurs attorneys' fees, legal expenses, or other costs to enforce the provisions of this Section 30 against Franchisee or a Contractor, then all such fees, expenses, and costs shall be recoverable from Franchisee to the extent County Parties prevail in such action. The hourly rates for any award of attorneys' fees will be calculated based on the rate that would be charged for the services provided by an attorney who is in private practice, of the same expertise and experience as the prevailing party's attorney(s).

30.7 The Parties specifically and expressly agree that, solely to the extent required to enforce the release, indemnification, defense, and hold harmless obligations contained in this Section 30, Franchisee waives its immunity under RCW Title 51 as to County Parties; provided, however, the foregoing waiver shall not in any way preclude Franchisee from raising such immunity as a defense against any claim brought against Franchisee by any of its employees. This waiver has been mutually negotiated by the Parties.

30.8 All Claims involving Hazardous Material shall be subject to this Section 30 and not the indemnity and liability provisions of Section 18 (Hold Harmless and Indemnification). This Section 30 provides the Parties' exclusive contractual remedies as to Hazardous Materials but does not limit and shall not be deemed to affect the County's statutory rights of recovery or its common law causes of action.

### Section 31. Dangerous Conditions; Authority for County to Abate

31.1 Whenever Franchisee's Construction, Operation, Maintenance, or abandonment of Facilities has caused or contributed to a condition that, in the reasonable opinion of the County Road Engineer, substantially impairs the lateral support of the adjoining road or public or private property, or endangers the public, an adjoining public place, road facilities, County property or private property, the County Road Engineer may direct Franchisee to remedy the condition or danger to the satisfaction of the County Road Engineer, within a specified period of time and at no expense to the County.

31.2 In the event that Franchisee fails or refuses to promptly take the actions directed by the County Road Engineer or fails to fully comply with such directions, the County may take actions that are reasonably necessary to protect the public, the adjacent roads, road facilities, or to maintain the lateral support thereof, or actions necessary to ensure the public safety, and Franchisee shall be liable to the County for the costs thereof.

31.3 This Section 31 does not affect the Parties' rights and obligations regarding Emergencies under Section 23.

### Section 32. Decommissioning of Facilities

32.1 If Franchisee wishes to cease Operation and decommission in place any portion of Facilities, Franchisee shall provide a written decommissioning request ("Request") to the County a minimum of **ninety (90) days** prior to the date Franchisee intends to decommission Facilities. Unless such Request is part of an application for a Franchise Area, construction permit, the Franchisee shall deliver the Request in accordance with Section 9, to the attention of the County Road Engineer and the County contact listed in Section 9.1. Franchisee's Request shall specify which Facilities it wishes to decommission in place along with an acknowledgment that Franchisee will maintain ownership and responsibility of decommissioned Facilities in perpetuity.

32.2 The County will review the Request and assess whether decommissioning in place will pose a hazard to the public use of the Franchise Area. If the County determines that the Request will pose a hazard to the public use of Franchise Area, the County may deny the Request or alternatively may approve the Request with terms and conditions that Franchisee must meet to

ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area.

32.3 If the County approves Franchisee's Request, Franchisee shall continue to own and be responsible for all decommissioned Facilities.

32.4 If the County denies Franchisee's Request in whole or in part, or if Franchisee refuses to accept terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of Franchise Area, then Franchisee may not decommission in place the subject Facilities.

32.5 If Franchisee decommissions Facilities after the County has denied its Request, or if Franchisee fails to satisfy any terms and conditions imposed to ensure that the decommissioned Facilities will not pose a hazard to the public use of the Franchise Area, then Franchisee shall be deemed to have decommissioned Facilities without authorization. In the event of any unauthorized decommissioning of any portion of Facilities by Franchisee, the County may, at its election, and in addition to any other remedies or enforcement options available to the County under this Franchise, at law or in equity, remove all or any portion of the decommissioned Facilities on behalf of Franchisee and restore the Franchise Area following such removal. If the County chooses to remove Facilities and restore the Franchise Area on Franchisee's behalf, then the County may dispose of the removed Facilities in any manner it deems fit, and Franchisee shall reimburse the County for all costs and expenses incurred by the County in performing such removal and restoration activities.

32.6 Within **ninety (90) days** of the end of the term of this Franchise, including any extension, renewal, or termination thereof, Franchisee shall provide a Request to the County pursuant to Section 32.1 if Franchisee wishes to decommission in place any of its Facilities. The Request and the Parties' associated obligations and rights shall be subject to the provisions of Sections 32.1 through 32.5. If Franchisee fails to provide such Request within **ninety (90) days**, Franchisee shall be deemed to have decommissioned in place its Facilities without authorization, and the County shall have the remedies available to it under Section 32.5 in addition to any other remedies or enforcement options available under the Franchise, at law or in equity.

32.7 For purposes of this Franchise, decommissioning includes failure by Franchisee to use any portion of Facilities for twelve (12) consecutive months. Use by Colocators or other third parties shall not constitute "use" for purposes of determining whether decommissioning has occurred under this Section 32.

32.8 If Franchisee does not intend to continue use of any Facilities which are occupied by a Colocator, and Franchisee desires to transfer ownership of Facilities to said Colocator rather than decommissioning them in place, Franchisee shall notify the County of its intentions as prescribed in Section 17, and any transfer shall be subject to the terms of Section 17. No Facilities located in the clear zone shall be decommissioned in place or transferred to another party.

## EXECUTION

### Section 33. Acceptance



**HYPERFIBER OF WASHINGTON, LLC**

STATE OF WASHINGTON )  
 ): ss.  
COUNTY OF King County )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally  
appeared \_\_\_\_\_, and under oath stated that as  
\_\_\_\_\_ of \_\_\_\_\_, s/he was authorized to  
execute the foregoing instrument, which s/he signed as a free and voluntary act on behalf of and  
with the knowledge and authority of \_\_\_\_\_.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print or type name)  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

**KING COUNTY**

STATE OF WASHINGTON )  
 ): ss.  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally  
appeared \_\_\_\_\_, known to me as the Director/Chief Information Officer, Department  
of Information Technology, for King County, and under oath stated that s/he was authorized to  
execute the foregoing instrument, which s/he signed as a free and voluntary act on behalf of and  
with the knowledge and authority of King County.

Given under my hand and official seal hereto affixed the day and year last above written.

Notary Seal

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print or type name)  
Notary Public in and for the State of Washington  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

## EXHIBIT A

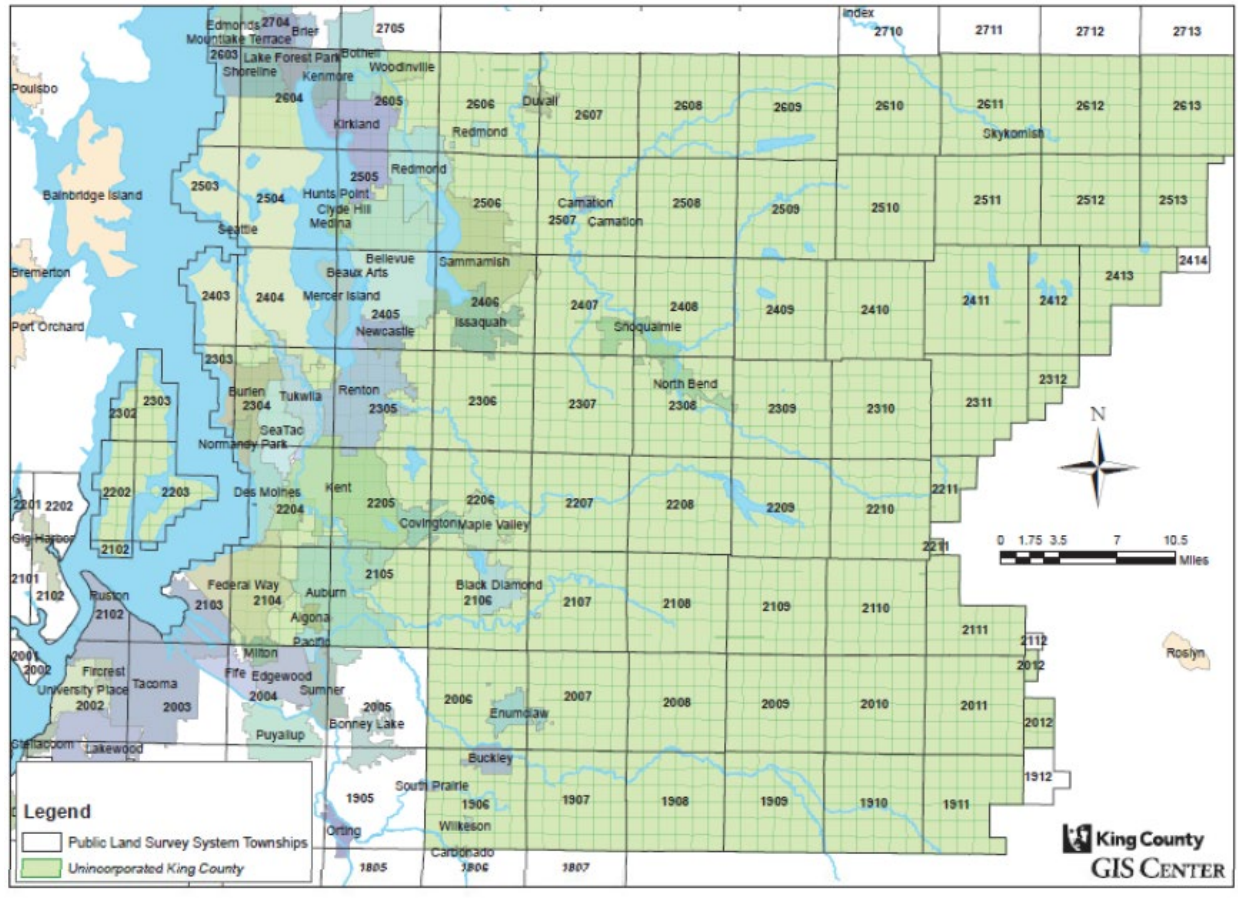
### FRANCHISE AREA DESCRIPTION

All those portions of unincorporated King County excluding all incorporated Cities located in following townships and Ranges: Township 26, Ranges 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Township 25, Ranges 5, 6, 7, 8, 9, 10, 11, 12 and 13, Township 24, Ranges 6, 7, 8, 9, 10, 11, 12 and 13, Township 23, Ranges 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Township 22, Ranges 5, 6, 7, 8, 9, 10 and 11, Township 21, Ranges 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Township 20, Ranges 5, 6, 7, 8, 9, 10, 11 and 12, Township 19, Ranges 6, 7, 8, 9, 10 and 11.

The foregoing includes all sections within the described townships and ranges.

# EXHIBIT B

## FRANCHISE AREA MAP



**EXHIBIT C**

ADDITIONAL LANGUAGE

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**EXHIBIT D**

NON-STANDARD ADDITIONS TO FRANCHISE DOCUMENT

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**King County**

**Shannon Braddock**  
King County Executive

401 Fifth Avenue, Suite 800  
Seattle, WA 98104

**206-296-9600** Fax 206-296-0194  
TTY Relay: 711  
[www.kingcounty.gov](http://www.kingcounty.gov)

September 19, 2025

The Honorable Girmay Zahilay  
Chair, King County Council  
Room 1200  
C O U R T H O U S E

Dear Councilmember Zahilay:

This letter transmits a proposed Ordinance that, if enacted, would authorize King County to enter into a non-exclusive franchise agreement with HyperFiber of Washington, LLC for the for use of certain King County road rights-of-way in unincorporated King County in Districts, 5, 7, and 9 for the construction, operation, and maintenance of wireline telecommunications transmission facilities. The application and negotiated franchise agreement meets the criteria for approval as specified in King County Code 6.27.060.A and ensures a continuing service to the public.

HyperFiber of Washington, LLC is a for-profit corporation which intends to build a broadband fiber-optic network to serve residential and business customers in areas of unincorporated King County. This network will include aerial pathways on utility poles in King County and underground pathways using conduit installed in King County public rights-of-way. The network provides high speed connections for access to internet, voice, and data services.

Thank you for your consideration of this proposed Ordinance.

If your staff have questions, please contact Stephen Heard, Acting Director and Chief Information Officer, King County Department of Information Technology at 206-477-5728.

The Honorable Girmay Zahilay

September 19, 2025

Page 2

Sincerely,



for

Shannon Braddock

King County Executive

Enclosure

cc: King County Councilmembers  
ATTN: Stephanie Cirkovich, Chief of Staff, King County Council  
Melani Hay, Clerk of the Council  
Karan Gill, Deputy Executive, Chief of Staff, Office of the Executive  
Stephanie Pure, Council Relations Director, Office of the Executive  
Stephen Heard, Acting Director, King County Department of Information Technology.

2025 FISCAL NOTE

Ordinance/Motion:  
 Title: The execution of a franchise agreement with HyperFiber of Washington, LLC  
 Affected Agency and/or Agencies: KCIT  
 Note Prepared By: Junko Keesecker  
 Date Prepared: 7/10/2025  
 Note Reviewed By:  
 Date Reviewed:

**Description of request:**

The execution of a franchise agreement with HyperFiber of Washington, LLC, for use of certain King County road rights-of-way in unincorporated King County for the construction, operation, and maintenance of wireline telecommunications transmission facilities. No budgetary impact.

**Revenue to:**

Agency	Fund Code	Revenue Source	2025	2026-2027	2028-2029
KCIT Cable Communications	10				
TOTAL			0	0	0

**Expenditures from:**

Agency	Fund Code	Department	2025	2026-2027	2028-2029
KCIT Cable Communications	10	KCIT			
TOTAL			0	0	0

**Expenditures by Categories**

	2025	2026-2027	2028-2029
TOTAL	0	0	0

Does this legislation require a budget supplemental? Yes/No

Notes and Assumptions:



**King County**

**Metropolitan King County Council  
Government Accountability and Oversight Committee**

STAFF REPORT

Agenda Item:	6	Name:	Miranda Leskinen
Proposed No.:	2026-0101	Date:	May 12, 2026

SUBJECT

An Ordinance relating to the prevention, detection, and response to fraud, waste, and abuse of county-administered moneys.

SUMMARY

Proposed Ordinance 2026-0101 would:

- Amend the County Code to establish an Inspector General Division within the Office of Public Complaints (currently named the Office of the Ombuds) focused on investigating suspected fraud, waste, and abuse of county-administered moneys; and
- Establish a ‘fraud hotline’ to receive reports and complaints from the public of suspected fraud, waste, or abuse of county-administered moneys.

Staff analysis of the proposed ordinance is ongoing.

BACKGROUND

What are Offices of Inspector General? As noted in a March 2026 Auditor-Ombuds joint report (discussed later in this staff report), offices of inspector general provide independent and objective oversight of government programs and operations through audits, investigations, and inspections and are generally known for their:

- Organizational independence;
- Ability to receive complaints; and
- Powers to issue subpoenas and administer oaths.

As further noted, federal law (5 U.S.C. Ch.4) describes their purpose to include:

- Addressing fraud, waste, and abuse;
- Promote efficiency and effectiveness; and
- Keep senior leadership informed about issues and corrective actions.

Offices of inspector general exist at all levels of government in the United States including, locally, the City of Seattle, whose Office of Inspector General for Public Safety (established in 2017) oversees the management, practices, and policies of the Seattle Police Department and the Office of Police Accountability.<sup>1</sup>

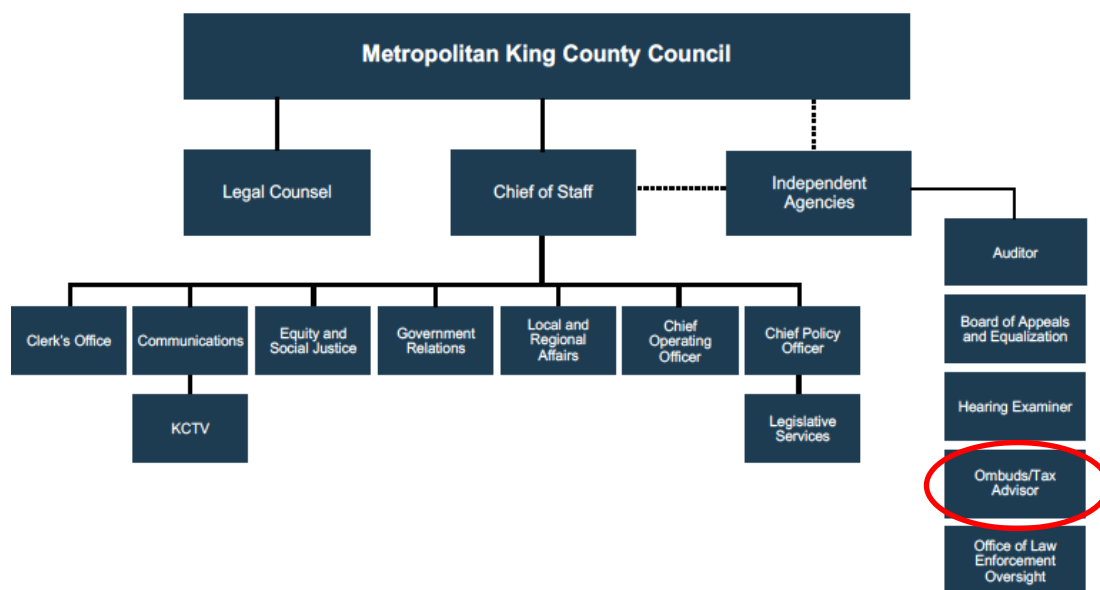
Office of Public Complaints - King County Charter (1968). Section 260 of the King County Charter directs that the County Council shall establish by ordinance an office to receive complaints concerning the operation of county government.

Per the Charter, the office shall be granted sufficient power to permit it quickly and efficiently to investigate and to make and publicize recommendations concerning its findings, including the power to subpoena witnesses<sup>2</sup>, documents, and other evidence and to administer oaths. Any individual who is the subject of a complaint has the right to present witnesses on their own behalf.

Office of Public Complaints - King County Code. The Office of Public Complaints, which is currently also referred to as the “Ombuds Office”, was established in 1970 via Ordinance 473<sup>3</sup>. Provisions relating to the Office of Public Complaints are primarily codified in K.C.C. chapter 2.52.

Office’s Current Structure. The Office of Public Complaints (“Ombuds”) is an independent agency within the Legislative Branch of King County Government (see Figure 1).

Figure 1. King County Legislative Branch Organizational Chart



<sup>1</sup> City of Seattle, Office of Inspector General. URL: <https://www.seattle.gov/oig>. Last accessed April 30, 2026.

<sup>2</sup> Limited to matters under written complaint by a member of the public, and any witness is afforded the right to be represented by counsel.

<sup>3</sup> Ordinance 473 (1970) established a joint Seattle/King County Office of Citizen Complaints, providing for the appointment and qualifications for the Director, and defined the Director’s duties and powers.

The Ombuds investigates complaints from the public and County employees about County departments, including:

- Complaints of administrative misconduct;
- Alleged violations of the Employee Code of Ethics;
- Reports of governmental action and retaliation under the Whistleblower Protection Code; and
- Possible violations of the Lobbyist Disclosure Code.

Director. The Director is appointed (5-year term) by the Council. The Director also serves as the County Tax Advisor in accordance with state law (RCW 84.48.140).

County Code requires the Director to receive complaints from any source concerning any administrative act<sup>4</sup> and to conduct a suitable investigation into the subject matter of the complaint within a reasonable time, unless the Director believes that:

1. The complainant has available another remedy or channel of complaint that the complainant could reasonably be expected to use;
2. The grievance pertains to a matter outside the power of the Office;
3. The complainant's interest is insufficiently related to the subject matter;
4. The complainant is trivial, frivolous, vexatious, or not made in good faith; or
5. The complaint has been too long delayed to justify present examination of its merit.

Recommendations. The Director must provide their recommendation/s to the [applicable] administrative agency, which (if requested by the Director) must inform the Director about the action taken on their recommendation/s or the reasons for not complying with them. Of note, the director must notify the Council if they believe that an administrative action has been dictated by unfair/objectionable laws (i.e., to share their view regarding desirable legislative change).

County Code allows the Director to publish their conclusions, recommendations, and suggestions by transmitting them to the Council or a Council committee, the Executive, the press, and others who may be concerned. The Director is restricted from publishing any interim or confidential reports.

Disciplinary action against public personnel. The Director is required by County Code to refer a matter to the appropriate authorities if they have reason to believe that any public official, employee or other person has acted in a manner warranting criminal or disciplinary proceedings.

Annual reporting. Reporting by the Office on their activities during the prior calendar year is annually (in March) provided to the Council.

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<sup>4</sup> K.C.C. 2.52.010.B. defines "Administrative act" to include "every action (such as decisions, omissions, recommendations, practices, or procedures) of an administrative agency."

Auditor-Ombuds Joint Report (March 2026): “Building Toward Effective Fraud Risk Management and Response”. Ordinance 19978 (September 2025), relating to Community and Human Services (DCHS) contract management and compliance monitoring protocols, requested a joint report from the Auditor’s Office and the Office of Public Complaints (“Ombuds”) analyzing, among other things, the feasibility, anticipated timeline, and associated costs for adding an inspector general position/s within the Auditor’s Office or a department outside of DCHS who would be responsible for auditing, investigating, and receiving public complaints and complaints of suspected contracting agency fraud, waste, or abuse of county administered moneys. Of note, the request allowed for the report’s analysis and any recommendation/s to not be limited in scope to DCHS.

The resulting joint report provided to the Council, which was briefed<sup>5</sup> in the Government Accountability and Oversight (GAO) Committee on April 24<sup>th</sup>, includes the following three recommendations for the Council:

1. Prioritize prevention by advising the County Executive to:
  - a) conduct fraud risk assessments countywide;
  - b) develop and implement plans for fraud/integrity training and awareness; and
  - c) report all information on fraud and improper acts to the County Auditor and County Ombuds;
2. Clarify policy direction by revising the County Code to define key concepts, assign responsibilities, designate a central reporting system (“hotline”), and outline consequences for fraud and improper acts; and
3. Strengthen detection and response efforts by creating three new functions within the Auditor’s Office and requiring an evaluation of the functions after three years:
  - a) a fraud/integrity reporting system (hotline);
  - b) a fraud investigation function; and
  - c) an inspection function for contract review.

Executive Order (March 2026). Executive Zahilay earlier this year issued an executive order titled “Better Governance and Financial Management” to establish better governance practices to strengthen financial oversight and improve accountability and transparency in government operations. The order went into effect on March 4, 2026. The executive order calls for the following:

1. Establishment of an internal audit function;
2. Establish a subcabinet on improving accountability and compliance;
3. Implement internal controls for grantmaking;
4. Increase ethics and fraud prevention training;
5. Identify, assess, and establish key metrics that ensure more effective decision-making and sound evaluation of programs and services;
6. Review and prioritize base budgeting in advance of the 2028-2029 biennial budget;
7. Review agency operations to identify potential cost-saving measures;

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<sup>5</sup> Briefing 2026-B0055, Auditor’s Office and Ombuds’ Office Report on Fraud Risk Management and Response. GAO Committee, April 24, 2026.

8. Establish internal budget controls on programs funded through one-time funding to limit cost growth; and
9. Implement cost-saving measure on distressed funds.

Staff analysis on the implementation status of the executive order is ongoing.

## ANALYSIS

This section provides staff analysis of Proposed Ordinance 2026-0101 as follows:

- Section-by-section overview of the proposed legislation
- Implementation considerations
- Potential policy issues
- Next steps and key dates

Legislation overview. Proposed Ordinance 2026-0101, in short, would:

- Amend the County Code to establish an Inspector General Division within the Office of Public Complaints (renamed existing independent legislative agency) focused on investigating suspected fraud, waste, and abuse of county-administered moneys; and
- Establish a ‘fraud hotline’ to receive reports and complaints from the public of suspected fraud, waste, or abuse of county-administered moneys.

Table 1 provides a section-by-section overview of the proposed ordinance.

Table 1. Overview of Proposed Ordinance 2026-0101

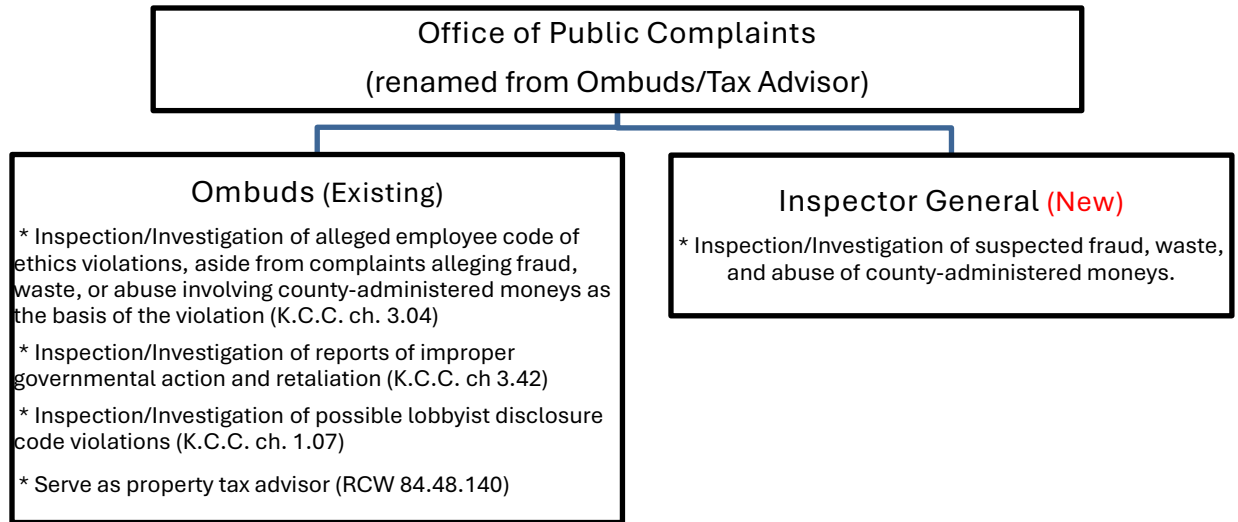
Section/s	Description
1-2, 9, 15, 17-18, 23, 26-7, 29-31, 33-7	<ul style="list-style-type: none"> <li>• Update terminology (e.g., changing “Ombuds” to Office of Public Complaints” where applicable)</li> </ul>
3	<ul style="list-style-type: none"> <li>• Authorize the Auditor to assist the Inspector General Division in its investigations of reports of suspected fraud/waste/abuse of county-administered moneys</li> </ul>
4	<ul style="list-style-type: none"> <li>• Explicitly identify contractor and grantees and contract or grant-related documents within access to persons, property and records provisions for the Auditor’s Office.</li> </ul>
5	<ul style="list-style-type: none"> <li>• Codify clear definitions of “fraud”, “waste”, “contract”, and “abuse” in K.C.C. chapter 2.52</li> </ul>
6	<ul style="list-style-type: none"> <li>• Restructure of the current Office of Public Complaints into Ombuds and Inspector General Divisions</li> <li>• Assign duties for each division</li> <li>• Recommend administrative agencies to notify the IG Division of complaints they receive of suspected fraud, waste, or abuse and to consult, coordinate, or collaborate with the IG Division on the agency’s investigation of the complaint.</li> </ul>

	<ul style="list-style-type: none"> <li>Recommend the IG Division Director adhere to applicable professional standards and best practices in carrying out the work of the Division.</li> </ul>
7-8	<ul style="list-style-type: none"> <li>Consolidate provisions regarding Director appointment, qualifications, and term of office into a single section of Code.</li> <li>Direct Council appointment of the Ombuds and Inspector General Division Directors for a 5-year term and identify appointment eligibility criteria (unchanged from current practice).</li> </ul>
10	<ul style="list-style-type: none"> <li>Authorize the Auditor to assist the Office of Public Complaints in its investigations of reports of suspected fraud/waste/abuse of county-administered moneys.</li> <li>Explicitly identify contractor and grantees and contract or grant-related documents within access to persons, property and records provisions for the Office of Public Complaints.</li> <li>Make various technical edits.</li> </ul>
11	<ul style="list-style-type: none"> <li>Explicitly identify an administrative act that might be contrary to contract or grant requirements as a matter eligible for action by the Office of Public Complaints.</li> <li>Make various technical edits.</li> </ul>
12	<ul style="list-style-type: none"> <li>Update provisions regarding action on complaints to reflect addition of an IG Division.</li> <li>Include contractors and grantees, as applicable, in notification provisions by the Office of Public Complaints when consideration of a complaint has been completed.</li> </ul>
13	<ul style="list-style-type: none"> <li>Update provisions regarding action on complaints to reflect addition of an IG Division.</li> <li>Explicitly include contractors and grantees, as applicable, in the provision relating to action on complaints that require disclosure/consultation before critical findings are published.</li> </ul>
14	<ul style="list-style-type: none"> <li>Require the Inspector General Division Director to produce a written determination and recommendations to an administrative agency and/or the Executive upon the finding of fraud, waste, or abuse.</li> <li>Include recommendation options for funds recovery and/or contract or grant suspension or debarment.</li> <li>Make various technical edits.</li> </ul>
16	<ul style="list-style-type: none"> <li>Require the Inspector General Division Director to annually report by July 1<sup>st</sup> to the Council on the activities of the Division for the prior calendar year.</li> <li>Make various technical edits.</li> </ul>
19	<p>New Code Section</p> <ul style="list-style-type: none"> <li>Establish a fraud hotline for the public to make reports/complaints to the Inspector General Division of suspected fraud, waste, or abuse of county-administered moneys .</li> <li>Direct the IG Division Director with establishing hotline operational guidelines, policies, and procedures and to publish a copy on their webpage, along with a notice that prominently displays the hotline's</li> </ul>

	<p>purpose and contact information.</p> <ul style="list-style-type: none"> <li>• Directs exploration of a potential reward program subject to available resources.</li> </ul>
20	<p>New Code Section</p> <ul style="list-style-type: none"> <li>• Require IG Division investigations to remain confidential until completed.</li> <li>• Provide for anonymity and confidentiality for hotline reporters to the fullest extent allowed by law.</li> </ul>
21	<ul style="list-style-type: none"> <li>• Requires the manager of the Finance and Business Operations Division (FBOD) to consult with the IG Division and develop rules, regulations, and guidelines to ensure that contracts listed in K.C.C. 2.93.120 require the contractor to cooperate with the IG Division in any investigation (under K.C.C. chapter 2.52) into allegations of waste, fraud, and abuse arising out of the contract.</li> </ul>
22	<ul style="list-style-type: none"> <li>• Codify clear definitions of “fraud”, “waste”, and “abuse” in K.C.C. chapter 2.93.</li> </ul>
24	<ul style="list-style-type: none"> <li>• Recommend a finding of fraud, waste, or abuse of county-administered moneys for contracting suspension or debarment.</li> </ul>
25	<p>New Code Section</p> <ul style="list-style-type: none"> <li>• Require County contracts to include language allowing for inspection, review, or audit of contract-related records and documents by the Auditor or Office of Public Complaints upon request/notification.</li> </ul>
28	<ul style="list-style-type: none"> <li>• Specify the duties of each Division of the Office of Public Complaints.</li> <li>• Make various technical edits.</li> </ul>
32	<ul style="list-style-type: none"> <li>• Codify a clear definition of “waste” in K.C.C. chapter 3.42.</li> <li>• Modify the definition of “improper governmental action” to explicitly identify waste, fraud, or abuse of public moneys as types of improper governmental action.</li> <li>• Make various technical edits.</li> </ul>
38	<ul style="list-style-type: none"> <li>• Ordinance effective July 1, 2026</li> </ul>
39	<ul style="list-style-type: none"> <li>• Severability clause</li> </ul>

Figure 2 summarizes the structure and duties of the Office of Public Complaints under the proposed ordinance.

Figure 2. Office of Public Complaints Duties Under PO 2026-0101



Under the proposed ordinance, the Office of Public Complaints would be co-led by two division directors (Ombuds Division Director and Inspector General Director), with each director being responsible for their staff team and carrying out the duties of their respective division.

Implementation Considerations. Key implementation considerations for creating a new Inspector General Division within the renamed Office of Public Complaints and a ‘fraud hotline’ include:

- Time needed to hire staff and set up the hotline infrastructure (e.g., software building); and
- Cost of hiring staff (e.g., Division Director and investigator/s) and establishing the hotline infrastructure.

Depending on the size of the Division, potential annual staffing costs<sup>6</sup> could range from approximately \$750,000 (Division Director + 3 staff) to \$1.87 million (Division Director + 9 staff), with about \$100,000 in estimated one-time hotline reporting system set-up costs. Additional ongoing and/or one-time costs include office equipment and overhead costs (e.g., central rate), hotline advertising, and consultant services.

For context, the 2026-2027 biennial Ombuds adopted budget is \$5.5 million (about \$2.75M annual) with 11.0 FTEs<sup>7</sup>.

Staff analysis of potential implementation costs and timing is ongoing.

Potential policy issues. Staff have identified some potential policy issues as summarized below. The issues below all represent policy choices for the committee to consider.

<sup>6</sup> FTE costs include salary, benefits, annual training budget, and CMS costs (e.g., software licenses).

<sup>7</sup> Ordinance 20023, Section 10.

1. Implementation management. The proposed ordinance is silent on the hiring process for the new Inspector General Division Director position and management over setting up the hotline. For instance, the Council could choose to manage the hiring process for the Inspector General Division Director, who would then be tasked with hiring any other Division Staff and leading the procurement process for setting up the hotline infrastructure.
2. Effective date. The effective date for Proposed Ordinance 2026-0101 is currently July 1, 2026; however, the Council may wish to amend that date to reflect implementation timing considerations.
3. Confidentiality and anonymity provisions. Section 20 of the proposed ordinance speaks to confidentiality and anonymity provisions relating to investigations performed by the proposed Inspector General Division. Whether to explicitly apply these provisions to investigations of the Ombuds Division presents a policy choice.
4. Expenditure authority– timing. Proposed Ordinance 2026-0071 (1<sup>st</sup> Omnibus) is currently under Council consideration and could be a vehicle for providing any expenditure authority needed to establish the proposed Inspector General Division and hotline.
5. Potential Ombuds workload impacts. It is unknown what impact establishment of the hotline may have on the workload of the Ombuds Division (e.g., increased non-fraud complaints forwarded to the Ombuds Division), which may yield a need for increased FTE authority/budget for that Division.

Next steps and key dates. Proposed Ordinance 2026-0101 has been referred to the Government Accountability and Oversight Committee. Table 3 provides the currently anticipated legislative schedule, including amendment deadlines, for the proposed ordinance.

Table 3. Anticipated Schedule for Proposed Ordinance 2026-0101

Action	Committee/Council	Date	Amendment Deadlines
Introduction & Referral	Full Council	April 28 <sup>th</sup>	
Discussion Only	GAO	May 12 <sup>th</sup>	
Action	GAO	June 9 <sup>th</sup>	Striker Direction to Staff: June 2 <sup>nd</sup> EOD  Striker Distributed: June 4 <sup>th</sup> EOD  Line Amendment Direction to Staff: June 5 <sup>th</sup> EOD
Final Action (Expedited)	Full Council	June 16 <sup>th</sup>	

## ATTACHMENTS

1. Proposed Ordinance 2026-0101



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

### Ordinance

**Proposed No.** 2026-0101.1

**Sponsors** Dembowski, Dunn, Perry, von Reichbauer and Fain

1 AN ORDINANCE relating to the prevention, detection,  
2 and response to fraud, waste, and abuse of county-  
3 administered moneys, and creating an inspector general  
4 division within the office of public complaints.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 SECTION 1. Ordinance 13320, Section 14, as amended, and K.C.C. 1.07.140 are  
7 hereby amended to read as follows:

8 A. Except for allegations of untimely filing of statements and reports, which are  
9 processed by the department under K.C.C. 1.07.130.K., complaints alleging a violation of  
10 any of the provisions of this chapter shall be filed with the ~~((county ombuds))~~ office of  
11 public complaints. Any such ~~((a))~~ complaint shall be in writing, verified and signed by  
12 the complainant. The complainant shall describe the basis for the complainant's belief  
13 that this chapter has been violated. The complainant may state in the written complaint  
14 whether the complainant desires that the complainant's name be withheld from disclosure  
15 under RCW 42.17.310(1)(e) if the complaint is the subject of a public records disclosure  
16 request.

17 B. Within twenty days of receiving a complaint meeting the requirements of  
18 subsection A. of this section, the ~~((county ombuds))~~ office of public complaints shall  
19 serve or mail, by certified mail, return receipt requested, a copy of the complaint to the

20 person alleged to have violated this chapter. Within forty days of receiving the complaint  
21 the ((~~county ombuds~~)) office of public complaints shall analyze the merits of the  
22 complaint to determine whether a full investigation is warranted. The ((~~county ombuds~~))  
23 office of public complaints shall have the authority to issue an order dismissing the  
24 complaint, or specific sections of the complaint, if the ((~~county ombuds~~)) office of public  
25 complaints determines that the complaint or specific sections of the complaint, as written,  
26 alleges a de minimis violation or does not state facts that, even if true, would constitute a  
27 violation of this chapter.

28 C. If the ((~~county ombuds~~)) office of public complaints determines that a full  
29 investigation of the complaint is warranted, then the investigation shall be directed to  
30 ascertain the facts concerning the violation or violations alleged in the complaint and  
31 shall be conducted in an objective and impartial manner. The ((~~county ombuds~~)) office  
32 of public complaints is authorized to contract for such investigative services and other  
33 assistance as may be needed to conduct the investigation, subject to the council's  
34 appropriation of adequate funds to pay for the costs of the contracts. In furtherance of  
35 such an investigation, the ((~~county ombuds~~)) office of public complaints is authorized to  
36 use the subpoena power to compel sworn testimony from any person and require the  
37 production of any records relevant or material to the investigation except information that  
38 is legally privileged. Upon request of the ((~~county ombuds~~)) office of public complaints,  
39 county employees shall provide sworn testimony and produce any records relevant or  
40 material to the investigation, except information that is legally privileged.

41 D. During the investigation, the (~~county ombuds~~) office of public complaints  
42 shall consider any statement of position or evidence with respect to the allegations of the  
43 complaint that the complainant or respondent wishes to submit.

44 E. The results of the investigation shall be reduced to written findings of fact and  
45 a finding shall be made that there either is or is not reasonable cause for believing that the  
46 respondent has violated one or more provisions of the chapter.

47 F. If a finding is made that there is no reasonable cause, then the finding shall be  
48 served or mailed, by certified mail, return receipt requested, to the complainant and the  
49 respondent and the finding shall be final. The original of the (~~county ombuds~~) office of  
50 public complaints' finding shall be filed with the clerk of the council.

51 G. If a finding is made that reasonable cause exists to believe that the respondent  
52 has violated one or more of the provisions of this chapter, then the (~~county ombuds~~)  
53 office of public complaints shall prepare an order to that effect, copies of which shall be  
54 served or mailed, by certified mail, return receipt requested, to the complainant and the  
55 respondent. The original of the (~~county ombuds~~) office of public complaints' order  
56 shall be filed with the clerk of the council. The reasonable cause order shall include:

- 57 1. A finding that one or more violations of this chapter has occurred;  
58 2. The factual basis for the finding;  
59 3. The amount of the civil penalty or penalties imposed for remedial purposes to  
60 be assessed for each violation. A person who is found to have violated this chapter shall  
61 be given a written warning for the first violation by certified mail, return receipt  
62 requested, and shall be subject to a civil penalty of up to one thousand dollars for each  
63 subsequent violation after the warning has been given. Further, an individual penalty

64 may not exceed one thousand dollars per violation and in any case where multiple  
65 violations are involved in a single complaint, the maximum aggregate civil penalty shall  
66 not exceed two thousand five hundred dollars; and

67 4. A notice informing the respondent that the respondent has the right to a  
68 hearing before the hearing examiner as set forth in K.C.C. 1.07.150.

69 SECTION 2. Ordinance 13320, Section 15, as amended, and K.C.C. 1.07.150 are  
70 hereby amended to read as follows:

71 A. Any respondent aggrieved by an order of the ((~~county ombuds~~)) office of  
72 public complaints may appeal that order by complying with K.C.C 20.22.080 and by  
73 providing a copy of the appeal to the complainant.

74 B. If an order of the ((~~county ombuds~~)) office of public complaints has been  
75 timely appealed, an examiner shall conduct a hearing and shall affirm, deny or modify the  
76 order. The parties to the hearing shall be the respondent and the ((~~county ombuds~~)) office  
77 of public complaints. There shall be a verbatim record kept of the hearing and the  
78 hearing examiner shall have the power to administer oaths and affirmations, issue  
79 subpoenas, compel attendance, take evidence and require the production of any books,  
80 papers, correspondence, memoranda or other documents relevant or material to the  
81 hearing, except information which is covered by the attorney-client privilege. The  
82 burden of proving that a violation occurred shall at all times be upon the ((~~county~~  
83 ~~ombuds~~)) office of public complaints. The decision of the hearing examiner shall be  
84 based upon a preponderance of the evidence. Such a hearing shall be conducted within a  
85 reasonable time after receipt of the request for appeal. Written notice of the time and

86 place of the hearing shall be given to the parties and the complainant at least ten days  
87 before the date of the hearing.

88 C. At the hearing each party shall have the following rights:

89 1. To call and examine witnesses on any matter relevant to the issues raised by  
90 the order of the ((~~county ombuds~~)) office of public complaints;

91 2. To introduce documentary and physical evidence;

92 3. To cross-examine opposing witnesses on any relevant matter;

93 4. To impeach any witness regardless of which party first called the witness to  
94 testify;

95 5. To rebut evidence against the party; and

96 6. To self-represent or to be represented by anyone of the party's choice who is  
97 lawfully permitted to do so.

98 D. Following review of the evidence submitted the hearing examiner shall, within  
99 a reasonable time, enter written findings and conclusions and shall affirm or modify the  
100 order previously issued if the hearing examiner finds that one or more violations of this  
101 chapter have occurred. The hearing examiner shall reverse the order if the hearing  
102 examiner finds that no violations of this chapter have occurred. A copy of the hearing  
103 examiner's decision shall be served or mailed, by certified mail, return receipt requested,  
104 to the ((~~county ombuds~~)) office of public complaints, the respondent and the complainant.  
105 The original of the hearing examiner's decision shall be filed with clerk of the council.

106 E. A decision of the hearing examiner shall be a final and conclusive action  
107 unless within twenty-one calendar days from the date of issuance of the hearing

108 examiner's decision an aggrieved person files an appeal in superior court, state of  
109 Washington, for the purpose of review of the action taken.

110 SECTION 3. Ordinance 1565, Section 1, as amended, and K.C.C. 2.20.040 are  
111 hereby amended to read as follows:

112 A. The auditor shall conduct audits, studies and oversight promoting due  
113 diligence by county officials. The auditor may perform the following functions in the  
114 course of performing that work:

- 115 1. Determining whether laws, policies and regulations are being faithfully,  
116 efficiently, effectively and equitably implemented by county officials;
- 117 2. Determining whether agencies or programs are achieving intended results;
- 118 3. Holding county officials accountable in their use of public funds and other county  
119 resources; and
- 120 4. Submitting to the council reports resulting from audits, studies or oversight.

121 B. The auditor may assist the inspector general division of the office of public  
122 complaints in the investigations of suspected fraud, waste, or abuse of county-  
123 administered moneys in accordance with K.C.C. 2.52.020.C.

124 C. The council shall review and approve by motion a work program proposed by  
125 the auditor at least every two years. To respond to emerging issues or circumstances, the  
126 auditor may request that the council by motion amend the work program or the council,  
127 by motion, may amend the work program. However, a council-initiated change to the  
128 work program shall not be made that adversely affects an audit or study in progress  
129 without the recommendation of the auditor.

130           ~~((C-))~~ D. If the auditor determines that there is serious concern regarding fraud,  
131 abuse or illegality, or that the scope of an audit or study in progress should be expanded  
132 as the result of any findings, the auditor may initiate spontaneously and conduct, or  
133 expand the scope of, an audit beyond that approved in the work program.

134           SECTION 4. Ordinance 18799, Section 9, and K.C.C. 2.20.065 are hereby  
135 amended to read as follows:

136           A. The auditor shall have full and unrestricted access to any and all persons,  
137 property and records in any form of any department, agency, program, or other entity,  
138 including contractors, and grantees, that receives appropriations or funding from the  
139 county or performs work on behalf of or under the authority of the county. Access to  
140 persons, property, and records shall be provided to the auditor in a timely manner and  
141 without limitation. Access to persons or property and all records requested by the auditor  
142 shall be provided without charge.

143           B. For the purposes of this section, "access to persons" includes information,  
144 interviews or testimony by any and all individuals or entities employed by the county,  
145 including its officers and employees, or ~~((persons))~~ other entities, including contractors,  
146 and grantees, performing work on behalf of or under the authority of the county. The  
147 manner of questioning the persons regarding their knowledge shall be determined  
148 exclusively by the auditor. The persons shall fully cooperate with the auditor and make  
149 full disclosure of all pertinent information.

150           C. For the purposes of this section, "access to property and records" includes  
151 furnishing and providing access to any and all requested property and records including,  
152 but not limited to, physical and digital materials, locations, writings, contracts and grants

153 and related documents, information systems, operations and data, in a manner determined  
154 exclusively by the auditor. Access to property and records shall be construed to the  
155 broadest extent, including property and records designated as confidential or of limited  
156 access by contract or law, unless access is specifically prohibited by law or court order.  
157 Persons with access to or responsible for confidential or limited-access property or  
158 records shall fully cooperate with the auditor in determining a plan of action to provide  
159 and manage the property or records.

160 D. If, in the exclusive opinion of the auditor, access to persons, property and  
161 records is inconsistent with the language of this section or insufficient to meet the needs  
162 of the auditor to perform its duties, the auditor, with approval of the council by motion,  
163 may either issue a subpoena compelling access or require full disclosure under oath, or  
164 both.

165 E. In addition to the powers of the auditor set forth in this chapter, the auditor  
166 may seek regular or equitable relief to enjoin any acts or practices and abate any  
167 conditions which the auditor believes constitute or will constitute a violation of this code  
168 or other pertinent laws or regulations.

169 SECTION 5. Ordinance 473, Section 1, as amended, and K.C.C. 2.52.010 are  
170 hereby amended to read as follows:

171 ~~((As used in))~~ The definitions in this section apply throughout this chapter~~((, the~~  
172 ~~term:))~~ unless the context clearly requires otherwise.

173 A. "Abuse" means behavior that is deficient or improper compared with what a  
174 prudent person would consider reasonable and necessary given the circumstances,  
175 including payment of county-administered moneys that should not have been made, was

176 made in the incorrect amount, or made with insufficient documentation resulting in a  
177 material breach of a contract or grant.

178 B. "Administrative agency" means any department, office or other governmental  
179 unit, or any employee of King County acting or purporting to act by reason of a  
180 connection with the county, and the Board of Equalization/Appeals; but "administrative  
181 agency" does not include:

- 182 1. Any court or judge or appurtenant judicial staff~~((7))~~<sub>2</sub>;
- 183 2. The members or staffs of the county council~~((7))~~<sub>2</sub>;
- 184 3. The executive or the executive's personal staff~~((7))~~<sub>2</sub>; or
- 185 4. The county prosecuting attorney or the prosecuting attorney's staff.

186 ~~((For purposes of this chapter "administrative agency" shall specifically include the Board~~  
187 ~~of Equalization/Appeals.))~~

188 ~~((B-))~~ C. "Administrative act" includes every action ~~((f))~~<sub>2</sub> such as decisions,  
189 omissions, recommendations, practices, or procedures~~((h))~~<sub>2</sub> of an administrative agency.  
190 For purposes of this chapter, action of a contractor, or grantee related to a contract or  
191 grant with the county shall be considered an administrative act.

192 D. "Contract" means a mutually binding legal relationship that obligates a person,  
193 including a firm, corporation, or partnership or other entity, to provide tangible personal  
194 property, services, professional, or technical services or public work to the county, and  
195 that obligates the county to pay for such. For the purposes of this chapter, the term also  
196 includes "grant", which means an agreement between the county and a grant recipient  
197 under which the county makes an award of county-administered moneys to a recipient to

198 fund projects, services, or research that serve a public purpose and no repayment of the  
199 award is expected.

200 E. "Fraud" means the wrongful or criminal deception or misrepresentation  
201 intended to result in financial or personal gain. Fraud includes false representation of fact,  
202 making false statements, or by concealment of information.

203 F. "Waste" means the thoughtless or careless expenditure, mismanagement, or  
204 abuse of resources to the detriment, or potential detriment of the county. Waste also  
205 includes incurring unnecessary costs resulting from inefficient or ineffective practices,  
206 systems, or controls.

207 SECTION 6. Ordinance 473, Section 2, as amended, and K.C.C. 2.52.020 are  
208 hereby amended to read as follows:

209 A. In accordance with Section 260 of the King County Charter, the office of  
210 public complaints(~~/tax advisor~~) is established (~~(and may also be referred to as the~~  
211 ~~ombuds office)~~). The office shall consist of:

212 1. The ombuds division; and

213 2. The inspector general division.

214 B. The duties of the ombuds division shall include the following:

215 1. Inspection and investigation of alleged violations of the employee code of  
216 ethics under K.C.C. chapter 3.04;

217 2. Inspection and investigation of reports of improper governmental action and  
218 retaliation under K.C.C. chapter 3.42;

219 3. Inspection and investigation of possible violations of the lobbyist disclosure  
220 code under K.C.C. chapter 1.07; and

221 4. Serve as property tax advisor in accordance with RCW 84.48.140 and provide  
222 advice to any person liable for payment of property taxes in King County, including the  
223 process for appealing property tax assessments and other matters related to property  
224 taxes. The division shall routinely and at least annually publicize these services to the  
225 public.

226 C. The duties of the inspector general division shall include inspection and  
227 investigation of complaints of suspected fraud, waste, and abuse of county-administered  
228 moneys. The inspector general division may receive assistance from the auditor with  
229 investigations of suspected fraud, waste, or abuse of county-administered moneys.

230 D. An administrative agency should notify the inspector general division of  
231 complaints received of suspected fraud, waste, or abuse of county-administered moneys  
232 and should consult, coordinate or collaborate with the inspector general division on the  
233 administrative agency's investigation of the complaint.

234 E. In carrying out the duties of the inspector general division, its director should  
235 adhere to applicable professional standards and best practices, such as the Quality  
236 Standards for Investigations (2025) promulgated by the Council for Inspectors General  
237 on Integrity and Efficiency.

238 SECTION 7. Ordinance 5869, Section 4, as amended, and K.C.C. 2.52.030 are  
239 hereby amended to read as follows:

240 A.1. Both the ombuds division director and the inspector general division ((The))  
241 director of the ((ombuds)) office of public complaints shall be appointed by a majority of  
242 the members of the county council.

243           2. Each division director shall serve for a term of five years, unless removed by  
244 a vote of two-thirds of the members of the county council upon their determination that  
245 the director has become incapacitated or has been guilty of neglect of duty, misconduct,  
246 or political activity. The council may appoint an interim director pending the  
247 appointment of a new director whenever the term of the director has expired or the  
248 position otherwise becomes vacant.

249           B. Each division director shall be a registered voter of the United States, shall  
250 hold a degree from an accredited college or its equivalent in service to government, shall  
251 have a working knowledge of legal and administrative procedures, and shall have either  
252 experience or knowledge, or both, in local government commensurate to the powers of  
253 the office. During the term of which the director is appointed, the director shall be  
254 ineligible to hold any other public office of employment. The director shall not be a  
255 candidate for any public office for a period of two years following the completion of the  
256 director's term as inspector general division director. The director shall not be included  
257 in the classified civil or career service of the county.

258           SECTION 8. Ordinance 473, Section 4, as amended, and K.C.C. 2.52.040 and  
259 Ordinance 473, Section 5, as amended, and K.C.C. 2.52.050 are hereby repealed.

260           SECTION 9. Ordinance 473, Section 8, as amended, and K.C.C. 2.52.080 are  
261 hereby amended to read as follows:

262           A. ~~((The director shall serve as property tax advisor for King County in~~  
263 ~~accordance with RCW 84.48.140.))~~

264           ~~((B.))~~ The ombuds and inspector general division directors may with concurrence  
265 of the council select, appoint and compensate, within the amount available or budgeted

266 by appropriation, such assistants and employees as staff as ~~((the director))~~ they deem~~((s))~~  
267 necessary to discharge the ~~((director's))~~ office's responsibilities under this chapter. The  
268 assistants and employees shall not be included in the classified civil or career service of  
269 the county.

270 ~~((C))~~B. The ombuds and inspector general division directors each may delegate  
271 to staff any of the respective director's authority or duties under this chapter except this  
272 power of delegation and the duty formally to make recommendations to administrative  
273 agencies or reports to either or both the executive and the council.

274 SECTION 10. Ordinance 473, Section 9, as amended, and K.C.C. 2.52.090 are  
275 hereby amended to read as follows:

276 The ombuds and inspector general division directors shall have the following  
277 powers to fulfill the duties of the respective divisions:

278 A. To investigate, on complaint or on the director's own initiative, any  
279 administrative act of any administrative agency:

280 1. To prescribe the methods by which complaints are made, received and acted  
281 upon; to determine the scope and manner of investigations to be made; and, subject to the  
282 requirements of this chapter, to determine the form, frequency and distribution of the  
283 director's conclusions and recommendations;

284 2. To request and be given by each administrative agency the assistance and  
285 information the director deems necessary for the discharge of the director's  
286 responsibilities; to examine the records and documents of all administrative agencies,  
287 including contract or grant records and related documents; and to enter and inspect  
288 premises within administrative agencies' control;

289           3. To administer oaths and hold hearings in connection with any matter under  
290 inquiry;

291           4. To issue a subpoena to compel any person to appear, give sworn testimony or  
292 produce documentary or other evidence reasonable in scope and generally relevant to a  
293 matter under inquiry; however, the subpoena power shall be limited to matters under  
294 written complaints by a ~~((resident of the county))~~ member of the public; and

295           5. To undertake, participate in, or cooperate with general studies, inspections,  
296 investigations, or inquiries by others, including receiving assistance with investigations  
297 from the auditor, whether or not related to any particular administrative agency or any  
298 particular administrative act, if the director believes that the general studies, inspections,  
299 investigations, or enquiries might enhance knowledge about or lead to improvements in  
300 the functioning of administrative agencies;

301           ~~((B. To investigate and enforce the provisions of the King County Code chapter  
302 about lobbyist disclosure, K.C.C. chapter 1.07, in accordance with the terms thereof;~~

303           ~~C. To investigate and enforce the provisions of the code of ethics, K.C.C.  
304 chapter 3.04, in accordance with the terms thereof;~~

305           ~~D. To investigate and enforce the provisions of the King County Code chapter  
306 about whistleblower protection, K.C.C. chapter 3.42, in accordance with the terms  
307 thereof; and~~

308           ~~E. To provide advice to any person liable for payment of property taxes in King  
309 County, including the process for appealing property tax assessments and other matters  
310 related to property taxes.))~~

311            SECTION 11. Ordinance 473, Section 10, as amended, and K.C.C. 2.52.100 are  
312 hereby amended to read as follows:

313            A. In selecting matters for ~~((the))~~ a respective division director's attention, the  
314 director shall address an administrative act that might be:

- 315            1. Contrary to law, contract or grant requirement, or regulation;
- 316            2. Unreasonable, unfair, oppressive, or inconsistent with the general course of  
317 an administrative agency's functioning;
- 318            3. Arbitrary in ascertainment of facts;
- 319            4. Improper in motivation or based on irrelevant considerations;
- 320            5. Unclear or inadequately explained when reasons should have been revealed;
- 321            6. Inefficiently performed; or
- 322            7. Otherwise objectionable.

323            B. ~~((The))~~ A division director also may recommend strengthening procedures and  
324 practices of administrative agencies.

325            SECTION 12. Ordinance 473, Section 11, as amended, and K.C.C. 2.52.110 are  
326 hereby amended to read as follows:

327            A. ~~((The))~~ A division director shall receive complaints from any source  
328 concerning any administrative act. The respective division director shall conduct a  
329 suitable investigation into the subject matter of the complaint within a reasonable time,  
330 unless the director believes that:

- 331            1. The complainant has available another remedy or channel of complaint that  
332 the complainant could reasonably be expected to use;

333           2. The grievance pertains to a matter outside the power of the (~~ombuds~~) office  
334 of public complaints;

335           3. The complainant's interest is insufficiently related to the subject matter;

336           4. The complaint is trivial, frivolous, vexatious, or not made in good faith; or

337           5. The complaint has been too long delayed to justify present examination of its  
338 merit.

339           B. After completing the respective division director's consideration of a  
340 complaint, whether or not it has been investigated, the director shall suitably inform the  
341 complainant and the administrative agency or agencies involved. If a county contractor  
342 or grantee is involved, both the contractor or grantee and the administrative agency that  
343 manages the contract or grant shall be informed.

344           C. A letter (~~to the ombuds director~~) from a person in a place of detention or in  
345 a hospital or other institution under the control of an administrative agency addressed to  
346 the office of public complaints, or either of its divisions, shall be forwarded immediately,  
347 unopened, to the office of public complaints to then be distributed to the applicable  
348 division director.

349           D. A report of suspected fraud, waste, and abuse received through the King  
350 County central reporting system established under section 19 of this ordinance shall be  
351 investigated by the inspector general division in accordance with this chapter.

352           SECTION 13. Ordinance 473, Section 12, as amended, and K.C.C. 2.52.120 are  
353 hereby amended to read as follows:

354 A. Any individual who is the subject of a complaint shall have the right to  
355 present witnesses and other evidence on the individual's own behalf prior to disclosure of  
356 any conclusions or recommendations by the respective division director.

357 B. Before publishing a conclusion or recommendation that criticizes an  
358 administrative agency or any person, the respective division director shall consult with  
359 the agency or person and shall disclose fully the critical findings the division director  
360 intends to publish. If a contractor or grantee is involved, both the contractor or grantee  
361 and the administrative agency that manages the associated contract or grant shall be  
362 consulted by the respective division director, who shall disclose fully the critical findings  
363 the division director intends to publish.

364 SECTION 14. Ordinance 473, Section 13, as amended, and K.C.C. 2.52.130 are  
365 hereby amended to read as follows:

366 A.1. ~~((H, h))~~ Having considered a complaint and whatever material the respective  
367 office of public complaints division director deems pertinent, the respective division  
368 director(~~( is of the opinion))~~) shall make findings regarding the validity of the complaint  
369 and any recommended actions that an administrative agency or executive should do,  
370 including:

371 ~~((1-))~~ a. ~~((C))~~ consider the matter further;

372 ~~((2-))~~ b. ~~((M))~~ modify or cancel an administrative act, including contract or  
373 grant suspension or debarment;

374 ~~((3-))~~ c. ~~((A))~~ alter a regulation or ruling;

375 ~~((4-))~~ d. ~~((E))~~ explain more fully the administrative act in question;

376 e. seek recovery of county-administered moneys from a contractor or  
377 grantee due to fraud, waste or abuse arising from an administrative act; or

378 ~~((§-))~~ f. ((F))take any other recommended step,

379 2. The respective division director shall ~~((state))~~ provide the director's written  
380 findings and recommendations to the administrative agency, executive, or both. If a  
381 contractor or grantee is involved, both the contractor or grantee and the administrative  
382 agency that manages the contract or grant shall be provided with the division director's  
383 findings and recommendations. If the division director ~~((se))~~ requests, the administrative  
384 agency or executive shall inform the division director, within the time the division  
385 director has specified, about the action taken on the division director's recommendations  
386 or the reasons for not complying with them.

387 B. If the division director believes that an administrative action has been dictated  
388 by laws ~~((whose))~~ the results of which are unfair or otherwise objectionable, the division  
389 director shall bring to the attention of the council the director's views concerning  
390 desirable legislative change.

391 SECTION 15. Ordinance 473, Section 14, as amended, and K.C.C. 2.52.140 are  
392 hereby amended to read as follows:

393 A. The division director may publish the director's conclusions,  
394 recommendations and suggestions by transmitting them to the county executive, the  
395 county council or ~~((to))~~ any appropriate committee of the council, the press, and others  
396 who may be concerned. When publishing an opinion criticizing an administrative agency  
397 or person, the division director, unless excused in writing by the agency or individual  
398 affected, shall include such statement or document that may have been made available to

399 the director by way of explaining past conduct or present rejection of the director's  
400 proposals. The division director shall not publish any interim or confidential reports.

401 SECTION 16. Ordinance 473, Section 15, as amended, and K.C.C. 2.52.150 are  
402 hereby amended to read as follows:

403 A. In addition to whatever reports ~~((the director))~~ the office of public complaints  
404 may make from time to time, the ombuds division director shall report to the county  
405 council annually. The director shall electronically file the report by March 1 of each  
406 year~~((, in the form of a paper original and an electronic copy))~~ with the clerk of the  
407 council, who shall retain ~~((the original))~~ an electronic copy and provide an electronic  
408 copy to all councilmembers, the council chief of staff, and the executive. The director  
409 shall also transmit that portion of the report related to ethics complaints, as described in  
410 subsection C. of this section, annually by March 1 of each year, in the form of an  
411 electronic copy to the board of ethics administrator, who shall provide an electronic copy  
412 to all board members. The ombuds division annual report shall provide an overview of  
413 activities performed by the ombuds division during the prior calendar year,  
414 include((e)ing, but not be limited to:

415 ~~((A. The exercise of the director's functions under this chapter during the~~  
416 ~~preceding calendar year. In discussing matters with which the director has dealt, the~~  
417 ~~director need not identify those immediately concerned if to do so would cause~~  
418 ~~unnecessary hardship. Insofar as the report may criticize named agencies or persons, it~~  
419 ~~must also include their replies to the criticism; and))~~

420 ~~((B.))~~ 1. The status of the lobbyist disclosure program described in K.C.C.  
421 chapter 1.07 from the preceding calendar year, including a summary of case outcomes

422 of complaints alleging a violation of K.C.C. chapter 1.07 that are no longer eligible for  
423 appeal, resource issues, and any concerns and recommendations for program  
424 improvement raised by members of the public or county employees; ~~((and))~~

425 ~~((C-))~~ 2. The status of the employee code of ethics program described in K.C.C.  
426 chapter 3.04 from the proceeding calendar year, including a summary of case outcomes  
427 of complaints alleging a violation of K.C.C. chapter 3.04 that are no longer eligible for  
428 appeal, resource issues, and any concerns and recommendations for program  
429 improvement raised by members of the public or county employees; and

430 ~~((D-))~~ 3. The status of the whistleblower program described in K.C.C. chapter  
431 3.42 from the preceding calendar year, including a summary of improper governmental  
432 action and retaliation claims processed during the reporting period, case outcomes of all  
433 claims investigated by the ombuds division, resource issues, any concerns raised by  
434 whistleblowers about the process, and any recommendations for program improvements.  
435 The ombuds division director is encouraged to seek feedback from participants in the  
436 whistleblower process when preparing the report.

437 B. In addition to reports from the office of public complaints, the inspector  
438 general division director of the office of public complaints shall report to the county  
439 council annually. The director shall electronically file the report by July 1 of each year  
440 with the clerk of the council, who shall retain an electronic copy and provide an  
441 electronic copy to all councilmembers, the council chief of staff and the executive. The  
442 inspector general division annual report shall provide an overview of activities performed  
443 by the inspector general division during the prior calendar year, including, but not be  
444 limited to:

445 1. An overview of inspections and investigations of suspected fraud, waste, and  
446 abuse of county-administered moneys, including a summary of case outcomes; and

447 2. The status of the King County fraud, waste, and abuse central reporting  
448 system established under section 19 of this ordinance, including any recommendations  
449 for reporting system improvement provided by members of the public or county  
450 employees.

451 SECTION 17. Ordinance 473, Section 16, as amended, and K.C.C. 2.52.160 are  
452 hereby amended to read as follows:

453 If ~~((the))~~ a division director of the office of public complaints has reason to  
454 believe that any public official, employee or other person has acted in a manner  
455 warranting criminal or disciplinary proceedings, the division director shall refer the  
456 matter to the appropriate authorities.

457 SECTION 18. Ordinance 473, Section 18, as amended, and K.C.C. 2.52.170 are  
458 hereby amended to read as follows:

459 A. A person required by ~~((the))~~ a division director of the office of public  
460 complaints to provide information shall be paid the same fees and allowances, in the  
461 same manner and under the same conditions, as are extended to witnesses whose  
462 attendance has been required in the courts of this state, excepting that city or county  
463 employees who are receiving compensation for the time that they are witnesses shall not  
464 be paid the set fees and allowances.

465 B. A person who, with or without service of compulsory process, provides oral or  
466 documentary information requested by ~~((the))~~ a division director of the office of public

467 complaints shall be accorded the same privileges and immunities as are extended to  
468 witnesses in the courts of this state.

469 C. Any witness in a proceeding before the ((~~ombuds~~)) office of public complaints  
470 shall have the right to be represented by counsel.

471 D. If a person fails to obey a subpoena, or obeys a subpoena but refuses to testify  
472 when requested concerning any matter under examination or investigation at the  
473 hearing, the applicable division director of the office of public complaints may petition  
474 the superior court of King County for enforcement of the subpoena. The petition shall be  
475 accompanied by a copy of the subpoena and proof of service, shall set forth in what  
476 specific manner the subpoena has not been complied with, and shall ask an order of the  
477 court to compel the witness to appear and testify before the ((~~ombuds~~)) office of public  
478 complaints. The court upon such petition shall enter an order directing the witness to  
479 appear before the court at a time and place to be fixed in such order and then and there to  
480 show cause why the witness has not responded to the subpoena or has refused to testify.  
481 A copy of the order shall be served upon the witness. If it appears to the court that the  
482 subpoena was properly issued and that the particular questions that the witness refuses to  
483 answer are reasonable and relevant, the court shall enter an order that the witness appear  
484 at the time and place fixed in the order and testify or produce the required papers and on  
485 failing to obey the order the witness shall be dealt with as for a contempt of court.

486 NEW SECTION. SECTION 19. There is hereby added to K.C.C. chapter 2.52 a  
487 new section to read as follows:

488 A. The King County fraud, waste, and abuse central reporting system, referred to  
489 in this section as "the hotline," is hereby established. The purpose of the hotline is to

490 create a mechanism for county employees and the public to report suspected fraud, waste,  
491 and abuse of county-administered moneys by the county and its officers, employees,  
492 contractors and grantees.

493 B.1. The hotline shall be operated by the inspector general division of the office  
494 of public complaints. In addition to reports made by telephone to the hotline, reports may  
495 be made by other available methods, such as email or online submission form.

496 2. The inspector general division director of the office of public complaints shall  
497 establish hotline operational guidelines, policies, and procedures, such as hotline hours of  
498 operation, written procedures for logging reports received through the hotline and for  
499 converting a report from the hotline into a complaint. A copy of these guidelines,  
500 policies, and procedures shall be made accessible to the public on the office's webpage.

501 3. The inspector general division director of the office of public complaints shall  
502 prepare and publish a notice on the office's webpage that prominently displays the contact  
503 information for the hotline and explains, at a minimum, the purpose of the hotline.

504 C. In accordance with K.C.C. 2.52.100 and K.C.C. 2.52.110, the inspector  
505 general division director is empowered to investigate complaints of suspected waste, and  
506 abuse of county-administered moneys received through the hotline.

507 D. The inspector shall explore the creation of a reward program for hotline  
508 reporters if the information provided leads to a substantiated finding by the inspector  
509 general division of fraud, waste, or abuse of county-administered moneys. The rewards  
510 would be subject to available expenditure authority and the written guidelines, policies,  
511 and procedures established under subsection B.2. of this section.

512            NEW SECTION. SECTION 20. There is hereby added to K.C.C. chapter 2.52 a  
513 new section to read as follows:

514            To the extent allowed by law, investigations by the inspector general division of  
515 the office of public complaints shall remain confidential unless either the complainant  
516 waives confidentiality in writing or until the inspector general division director makes a  
517 finding that fraud, waste, or abuse have occurred. If an investigation identifies an  
518 occurrence of fraud, waste, or abuse, any resulting determination and recommendations  
519 shall remain confidential until the investigation is complete. Additionally, if the  
520 complainant chooses to anonymously contact or otherwise report to the office of public  
521 complaints of suspected fraud, waste, or abuse of county-administered moneys, then to  
522 the fullest extent permitted by law, the office of public complaints will honor that choice.

523            SECTION 21. Ordinance 12138, Section 22, as amended, and K.C.C. 2.93.020  
524 are hereby amended to read as follows:

525            The manager is hereby authorized to take all actions necessary and appropriate to  
526 implement the policies and provisions in this chapter, and to promulgate such rules,  
527 regulations and guidelines as the manager deems necessary to carry out the purposes or  
528 provisions of this chapter. In exercising this authority, the manager shall consult with the  
529 inspector general division of the office of public complaints and shall develop rules,  
530 regulations and guidelines, including provisions in solicitation documents, contracts, or  
531 both, to ensure that the contracts listed in K.C.C 2.93.120 require the contractor to  
532 cooperate with the inspector general division in any investigation under K.C.C. chapter  
533 2.52 into allegations of waste, fraud, and abuse arising out of the contact. The rules,

534 regulations and guidelines shall be promulgated in compliance with K.C.C. chapter 2.98,  
535 and as appropriate in county solicitation documents and contracts.

536 SECTION 22. Ordinance 12138, Section 6, as amended, and K.C.C. 2.93.030 are  
537 hereby amended to read as follows:

538 The definitions in this section apply throughout this chapter unless the context  
539 clearly requires otherwise.

540 A. "Abuse" means behavior that is deficient or improper compared with what a  
541 prudent person would consider reasonable and necessary given the circumstances,  
542 including payment of county-administered moneys that should not have been made, was  
543 made in the incorrect amount, or made with insufficient documentation resulting in a  
544 material breach of a contract.

545 B. "Bid" or "proposal" means an offer to provide tangible personal property,  
546 services, technical or professional services, and public work in response to a solicitation  
547 for bids or proposals issued by the county.

548 ~~((B-))~~ C. "Bidder~~((;))~~" or "proposer" means a person, firm, partnership, or  
549 corporation that formally submits a bid, proposal or offer to provide tangible personal  
550 property, services, professional or technical services and public work to the county in  
551 response to a solicitation for bids or proposals or request for qualifications issued by the  
552 county.

553 ~~((C-))~~ D. "Collusion" means a willful act to defraud others of their rights or to  
554 obtain an unfair advantage in a public contracting process.

555 ~~((D-))~~ E. "Contract" means a mutually binding legal relationship ~~((or any~~  
556 ~~modification thereof obligating))~~ that obligates a person, including a firm, corporation, or

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557 partnership or other entity, to provide tangible personal property, services, professional,  
558 or technical services or public work to the county, and that obligates the county to pay  
559 ~~((there))~~ for such.

560 ~~((E.))~~ F. "Day" means a calendar day.

561 ~~((F.))~~ G. "Fraud" means the wrongful or criminal deception or misrepresentation  
562 intended to result in financial or personal gain. Fraud includes false representation of fact,  
563 making false statements, or by concealment of information.

564 H. "Incremental project cost" means the additional cost, if any, in design,  
565 procurement, construction and long-term maintenance, for achieving a reduction in  
566 energy usage or greenhouse gas emissions greater than the reduction that would be  
567 achieved under the applicable building code requirements.

568 ~~((G.))~~ I. "Manager" means the manager of the finance and business operations  
569 division.

570 ~~((H.))~~ J. "Professional services" means those services provided by licensed or  
571 certified individuals or consulting firms associated with either the development, design,  
572 or construction, or any combination thereof, of a public works or real property project.

573 ~~((I.))~~ K. "Public work" means all work, construction, alteration, enlargement,  
574 repair, demolition or improvement, other than ordinary maintenance, executed at the cost  
575 of the county or that is by law a lien or charge on any property therein.

576 ~~((J.))~~ L. "Sealed bid" means a method for submitting a bid to provide or perform  
577 work on a contract. In general, each interested party submits a bid in a sealed envelope  
578 or electronically as specified, and all of the bids are opened at the same time.

579           (~~(K-)~~) M. "Services," except for professional services or technical services,  
580 means the furnishing of labor, time or effort by a contractor, not involving the delivery of  
581 tangible personal property, such as reports that are merely incidental to the required  
582 performance.

583           (~~(L-)~~) N. "Tangible personal property" means equipment, supplies, materials, and  
584 goods, and includes intangible personal property that is movable, subject to ownership,  
585 and has exchange value.

586           (~~(M-)~~) O. "Technical services" means those services provided by independent  
587 contractors within the scope of accounting, law, financial or administrative studies,  
588 studies of a technical nature, management advisory services, and special project  
589 management, for a defined time or result or other practice that requires either specialized  
590 knowledge, advanced education or licensing, or certification, or any combination thereof,  
591 and where the primary service provided is intellectual involving the consistent exercise of  
592 judgment and discretion or the provision of specialized skills.

593           (~~(N-)~~) P. "Waiver" means a process whereby the procurement and contract  
594 services section may procure without formal solicitation procedures because of the  
595 uniqueness of circumstances related to that procurement action.

596           Q. "Waste" means thoughtless or careless expenditure, mismanagement, or abuse  
597 of resources to the detriment, or potential detriment of the county. Waste also includes  
598 incurring unnecessary costs resulting from inefficient or ineffective practices, systems, or  
599 controls.

600           SECTION 23. Ordinance 12138, Section 13, as amended, and K.C.C. 2.93.130  
601 are hereby amended to read as follows:

602           Regardless of whether bids or proposals have been solicited by the county for the  
603 purchase of tangible personal property or the performance of a service or services, the  
604 manager shall report to the executive any suspected collusion. The executive may order  
605 the suspected collusion to be reported to the appropriate authorities, including the office  
606 of public complaints. If the suspected collusion appears to violate federal antitrust laws,  
607 then the executive may order the suspected collusion reported to the appropriate federal  
608 authorities charged with enforcement.

609           SECTION 24. Ordinance 12138, Section 18, as amended, and K.C.C. 2.93.170  
610 are hereby amended to read as follows:

611           The executive shall comply with the following procedures in contract debarment  
612 and suspension actions:

613           A. After reasonable notice to the person involved and reasonable opportunity for  
614 that person to be heard, the executive shall have authority to debar a person, firm, or  
615 other legal entity for cause from consideration for award of contracts with the county.  
616 The debarment shall be for not more than two years;

617           B. The executive shall have the authority to suspend a person, firm, or other legal  
618 entity from consideration for award of contracts if there is probable cause for debarment.  
619 The suspension shall be for not more than six months;

620           C. The authority to debar or suspend shall be exercised by procedures established  
621 by the executive in accordance with this chapter;

622           D. The executive shall suspend or debar a person, firm, or other legal entity for:

623           1. Conviction within the five years preceding commencement of the debarment  
624 or suspension for commission of a criminal offense as an incident to obtaining or

625 attempting to obtain a public or private contract or subcontract, or in the performance of  
626 the contract or subcontract;

627           2. Conviction within the five years preceding commencement of the debarment  
628 or suspension under state or federal statutes of embezzlement, theft, forgery, bribery,  
629 falsification or destruction of records, receiving stolen property, or any other offense  
630 indicating a lack of business integrity or business honesty that currently, seriously, and  
631 directly affects responsibility as a contractor to the county;

632           3. Conviction within the five years preceding commencement of the debarment  
633 or suspension under state or federal antitrust statutes arising out of the submission of bids  
634 or proposals; or

635           4. Violation of state wage payment laws, including:

636           a. willful violation of a wage payment requirement, as defined in RCW  
637 49.48.082, where the citation and notice of assessment for the violation was issued within  
638 the five years preceding commencement of the debarment or suspension; or

639           b. civil judgments entered by a court against the person, firm or other legal  
640 entity for violations of wage payment requirements under state law within the five years  
641 preceding commencement of the debarment or suspension;

642           E. The executive should suspend or debar a person, firm or other legal entity for:

643           1. Violation of ethical standards set forth in contracts with the county;

644           2. Violation of contract provisions, such as the following, of a character that is  
645 regarded by the executive to be so serious as to justify debarment action:

646           a. deliberate failure without good cause to perform in accordance with the  
647 specifications or within the time limit provided in the contract;

648           b. substantial failure to comply with commitments to and contractual  
649 requirements for participation by minority and women's business enterprises and equal  
650 employment opportunity; ~~((or))~~

651           c. a finding of fraud, waste, or abuse of county-administered moneys; or

652           d. a recent record of failure to perform or of unsatisfactory performance in  
653 accordance with the terms of one or more contracts, though failure to perform or  
654 unsatisfactory performance caused by acts beyond the control of the contractor shall not  
655 be considered to be a basis for debarment; or

656           3. Any other cause that the executive determines to be so serious and  
657 compelling as to affect responsibility as a contractor to the county, including debarment  
658 by another governmental entity for any cause similar to those in this subsection E;

659           F. The executive shall issue a written decision stating the reasons for the  
660 debarment or suspension. The decision shall be promptly mailed or otherwise furnished  
661 to the debarred or suspended person and any other party intervening;

662           G. The executive's decision of debarment or suspension, unless fraudulent, shall  
663 constitute the final and conclusive decision on behalf of the county. After a final decision  
664 has been made, the executive shall submit a report to the council giving the name of the  
665 person, firm or other legal entity suspended or debarred and the reason or reasons for the  
666 suspension or debarment. The report shall be filed in the form of a paper original and an  
667 electronic copy with the clerk of the council, who shall forward an electronic copy to  
668 each councilmember; and

669           H. Notwithstanding subsection D. or E. of this section, the executive has the  
670 authority to not suspend or debar a person, firm or legal entity if the executive determines

671 significant harm would accrue to the county by suspension or debarment of the person,  
672 firm or other legal entity or that mitigating circumstances do not warrant debarment or  
673 suspension, and notifies the council within thirty days of the executive's determination.

674 NEW SECTION. SECTION 25. There is hereby added to K.C.C. chapter 2.93 a  
675 new section to read as follows:

676 The auditor and the office of public complaints shall, upon request, have access to  
677 contracts entered into by the county. Contracts shall include language requiring  
678 contractors be subject to inspection, investigation, and audit upon notification by the  
679 auditor or respective division director of the office of public complaints or other  
680 applicable county employee for compliance with the terms of the contract.

681 SECTION 26. Ordinance 9704, Section 1, as amended, and K.C.C. 3.04.015 are  
682 hereby amended to read as follows:

683 A. It is the policy of King County that the private conduct and financial dealings  
684 of public officials and employees and of candidates for public office shall present no  
685 actual or apparent conflict of interest between the public trust and private interest.

686 B. Public confidence in government is essential and must be sustained by  
687 establishing and enforcing rules to ensure the impartiality and honesty of officials and  
688 employees in all public transactions and decisions. Each affected agency of county  
689 government should inform its employees of the provisions of this chapter and strive to  
690 effectively enforce its requirements by seeking appropriate assistance from the  
691 ~~((ombuds))~~ office of public complaints, the board of ethics and the prosecuting attorney  
692 when considering and acting upon allegations of misconduct.

693 C. Former county employees should engage in transactions with the county  
694 consistent with the highest level of ethical conduct. It is essential that former county  
695 employees and the county maintain public confidence and ensure fair dealings with all  
696 persons by the county. A former county employee should not act, or appear to act, in  
697 such a manner as to take improper advantage of the former county employee's previous  
698 office or position with the county. A former county employee should not request or  
699 otherwise seek special consideration, treatment, or advantage beyond that which is  
700 available to every other person. A former county employee should avoid circumstances  
701 in which it appears, or to a reasonable person might appear, that the former county  
702 employee is requesting or otherwise seeking special consideration, treatment, or  
703 advantage.

704 SECTION 27. Ordinance 12014, Section 3, as amended, and K.C.C. 3.04.030 are  
705 hereby amended to read as follows:

706 A. No county employee shall engage in any act that is in conflict with the  
707 performance of official duties.

708 B. A county employee shall be deemed to have a conflict of interest if the  
709 employee directly or indirectly:

710 1. Receives or has any financial interest in any purchase, sale, or lease to or by  
711 the county of any service or property when the financial interest was received or obtained  
712 with the prior knowledge that the county intended to purchase, sell, or lease such property  
713 or service;

714 2. Is beneficially interested or has a substantial financial interest in, or accepts  
715 any compensation, gift or thing of value from any other person beneficially interested in,

716 any contract, sale, lease, option, or purchase that may be made by, through, or under the  
717 supervision of the employee, in whole or in part;

718           3. Accepts or seeks for others, any employment, travel expense, service,  
719 information, compensation, gift, or thing of value on more favorable terms than those  
720 granted to other county employees or the public generally, from any person doing  
721 business, or seeking to do business, with the county for which the employee has  
722 responsibility or with regard to which the employee may participate, provided that this  
723 subsection B.3 shall not apply to the receipt by elected officials, or by employees who are  
724 supervised directly by an elected official, of meals, refreshments or transportation within  
725 the boundaries of the county when given in connection with meetings with constituents or  
726 meetings that are informational or ceremonial in nature;

727           4. Accepts, any favor, loan, retainer, entertainment, travel expense,  
728 compensation, gift, or other thing of value from any person doing business or seeking to  
729 do business with the county when such an acceptance may conflict with the performance  
730 of the employee's official duties. A conflict shall be deemed to exist where a reasonable  
731 and prudent individual would believe that it was given for the purpose of obtaining  
732 special consideration or to influence county action. The financing of county election  
733 campaigns shall continue to be governed by chapter 42.17A RCW and the provisions of  
734 the charter and ordinances implementing it;

735           5. Participates in, influences, or attempts to influence, the selection of, or the  
736 conduct of business or a transaction with a person doing or seeking to do business with  
737 the county if the employee has a substantial financial interest in or with ~~((said))~~ the  
738 person;

739           6. Discusses or accepts an offer of future employment with any person doing or  
740 seeking to do business with the county if either:

741           a. the employee knows or has reason to believe that the offer of employment  
742 was or is intended, in whole or in part, as compensation or reward for the performance or  
743 nonperformance of a duty by the employee during the course of county employment or to  
744 influence county action pertaining to the business; or

745           b. the employee has responsibility for a matter upon which the person is doing  
746 or seeking to do business with the county, unless the employee has given notice in  
747 accordance with K.C.C. 3.04.037 and a method of providing for an alternative decision  
748 maker for the matter has been designated by the employee's appointing authority in a  
749 memorandum filed with the board of ethics, a copy of which is maintained by the  
750 appointing authority;

751           7. Within one year of entering county employment:

752           a. participates in a county action benefiting a person that formerly employed  
753 the employee, except that participation may be authorized in a memorandum by the  
754 appointing authority following written disclosure by the affected employee and the  
755 authorization shall be filed with the board of ethics and a copy maintained by the  
756 appointing authority; or

757           b. awards a county contract benefiting a person that formerly employed the  
758 employee;

759           8. Is an employee, agent, officer, partner, director, or consultant, of any person  
760 doing or seeking to do business with the county, unless such relationship has been  
761 disclosed as provided by this chapter;

762           9. Engages in or accepts compensation, employment or renders services for any  
763 person or a governmental entity other than the county when such employment or service  
764 is incompatible with the proper discharge of official duties or would impair independence  
765 of judgment or action in the performance of official duties;

766           10. Enters into a business relationship outside county government:

767           a. with any other employee for whom the employee has any supervisory  
768 responsibility; or

769           b. with any person with regard to a matter for which the employee has  
770 responsibility as a county employee;

771           11. Possesses a substantial financial interest in any person which does or seeks  
772 to do business with the county, without disclosing such interest as provided by this  
773 chapter;

774           12. As an appointive member of a board or commission, has a close relative  
775 serving on the same board or commission; or

776           13. Acts as an accomplice in any act by an immediate family member which, if  
777 the act were performed by the employee, would be prohibited by this subsection.

778 However, it shall not be a conflict of interest for the family member to enter into a bona  
779 fide contract of employment that is not intended to influence the action of the county  
780 employee.

781           C.1. The following employees must obtain the prior written consent of their  
782 highest ranking supervisor authorizing new or continued employment outside King  
783 County government, or authorizing the acceptance of any compensation or anything of  
784 value for services performed outside King County government:

- 785           a. the county administrative officer, the chief officer of each executive  
786 department or administrative office as defined by the charter, the manager of each  
787 division of the department or office, and all individuals who report directly to them;
- 788           b. all nonelected council employees, except that the personal staff of each  
789 individual councilmember shall obtain the consent from the councilmember;
- 790           c. all nonelected employees of the prosecuting attorney;
- 791           d. all nonelected employees of the department of judicial administration;
- 792           e. all nonelected employees of the department of assessments; and
- 793           f. the chief economist of the office of economic and financial analysis.
- 794           2. If the employment or service is deemed by the highest-ranking supervisor to  
795 pose a conflict of interest, the employee immediately shall divest the employment and  
796 failure to do so shall be grounds for dismissal.
- 797           D. A county employee shall be deemed to have a conflict of interest if the  
798 employee appears on behalf of a person before any regulatory governmental agency, or  
799 represents a person in any action or proceeding against the interest of the county in any  
800 litigation to which the county is a party, unless the employee has a personal interest in the  
801 litigation and this personal interest has been disclosed to the regulatory governmental  
802 agency or adjudicating individual or body. A county councilmember may appear before  
803 regulatory governmental agencies on behalf of constituents in the course of the  
804 councilmember's duties as a representative of the electorate or in the performance of  
805 public or civic obligations; however, no official or employee shall accept a retainer or  
806 compensation, or any gift or thing of value that is contingent upon a specific action by a  
807 county agency.

808 E.1. A county councilmember shall be deemed to have a conflict of interest if the  
809 councilmember, directly or indirectly, has a substantial financial or other private interest  
810 in any legislation or other matter coming before the council, and fails to disclose the  
811 interest on the records of the county council. This subsection shall not apply if the  
812 county councilmember is excused from voting by stating the nature and extent of such an  
813 interest.

814 2. Any other employee who is not a county councilmember, who, directly or  
815 indirectly, has a substantial financial or other private interest in, and who participates in,  
816 an action or proposed action of the county council and fails to disclose on the records of  
817 the county council the nature and extent of the interest, shall be deemed in violation of  
818 this chapter.

819 F.1. A county employee shall be deemed to have a conflict of interest if the  
820 employee, directly or indirectly, has an interest in any property being considered for  
821 revaluation by the county board of appeals and equalization or has a personal interest or  
822 connection with another person's petition for revaluation while the employee is:

- 823 a. an elected county official;
- 824 b. the executive's administrative assistant or office manager;
- 825 c. a county councilmember's executive secretary;
- 826 d. the county administrative officer, the county administrative officer's  
827 administrative assistants, or the county administrative officer's confidential secretary;
- 828 e. the chief officer of an executive department, the chief officer's  
829 administrative assistant, or the chief officer's confidential secretary;

830 f. the chief officer of an administrative office, the chief officer's administrative  
831 assistants, or the chief officer's confidential secretary;

832 g. the council administrator, the council administrator's administrative  
833 assistant, or the council administrator's secretary;

834 h. the ~~((ombuds or the ombuds's staff))~~ office of public complaints;

835 i. an employee of the department of assessments;

836 j. an employee assigned to either the board of equalization or the board of  
837 appeals, or both;

838 k. any other county employee who has direct contact with the board of appeals  
839 and equalization in the carrying out of the employee's duties;

840 l. a member of either the county board of appeals or the board of equalization,  
841 or both; or

842 m. The clerk of the council or the clerk's secretary.

843 2. All individuals listed in this subsection who wish to appeal to the county  
844 board of equalization on a matter of property revaluation shall be governed by the  
845 procedure in K.C.C. 3.04.040.

846 SECTION 28. Ordinance 9704, Section 9, as amended, and K.C.C. 3.04.055 are  
847 hereby amended to read as follows:

848 A. It shall be the responsibility of the ~~((ombuds))~~ office of public complaints to  
849 investigate and report apparent criminal violations of this chapter to the appropriate law  
850 enforcement authorities and to enforce this chapter according to the powers granted in  
851 this chapter. The ~~((ombuds))~~ office of public complaints is expressly authorized to serve

852 as an enforcement officer for this chapter and to impose the civil penalties authorized in  
853 K.C.C. 3.04.060.

854 B.1. Complaints alleging a violation of this chapter shall be filed with the  
855 ~~((ombuds))~~ office of public complaints. If the complaint alleges fraud, waste, or abuse  
856 involving county-administered moneys as the basis of the violation of this chapter, then  
857 the complaint shall be investigated by the inspector general division. All other  
858 complaints shall be investigated under this chapter by the ombuds division. For purposes  
859 of this subsection B. and subsections C. through I. of this section, "the office of public  
860 complaints" means the respective division conducting the investigation under this section.

861 2. The complaint shall describe the basis for the complainant's belief that this  
862 chapter has been violated. Any such a complaint shall be in writing, signed by the  
863 complainant with location of signing, dated, and declared to be true and correct to the  
864 best of the complainant's knowledge under penalty of perjury of the laws of the state of  
865 Washington. The complainant may state in writing whether the complainant wishes the  
866 complainant's name not to be disclosed in accordance with RCW 42.56.240(2).

867 3. Any complaint filed under this chapter must be filed within five years from  
868 the date of the violation. However, if it is shown that the violation was not discovered  
869 because of concealment by the person charged, then the complaint must be filed within  
870 two years from the date the violation was discovered or reasonably should have been  
871 discovered.

872 C. Upon receipt of a complaint meeting the requirements of subsection B. of this  
873 section, and upon a determination that the alleged conduct could constitute a violation of  
874 this chapter, the ~~((ombuds))~~ office of public complaints shall cause to be served or

875 mailed, by certified mail, return receipt requested, a copy of the complaint to the person  
876 alleged to have violated this chapter within twenty days after the filing of the complaint,  
877 and shall promptly make an investigation thereof. If the ((~~ombuds~~)) office of public  
878 complaints determines that the complaint does not meet the requirements of subsection B.  
879 or C. of this section, the ((~~ombuds~~)) office of public complaints shall inform the  
880 complainant in writing of that determination and the reason.

881 D. An investigation by the ((~~ombuds~~)) office of public complaints of a complaint  
882 under this chapter shall be directed to ascertain the facts concerning the alleged violation  
883 or violations of this chapter and shall be conducted in an objective and impartial manner.  
884 In furtherance of the investigation of the complaint, the ((~~ombuds~~)) office of public  
885 complaints is authorized to use the subpoena power to compel sworn testimony from any  
886 person, and to require the production of any records relevant or material to the  
887 investigation except information that is legally privileged or otherwise required by law  
888 not to be disclosed.

889 E. During the investigation, the ((~~ombuds~~)) office of public complaints shall  
890 consider any statement of position or evidence with respect to the allegations of the  
891 complaint that the complainant or respondent wishes to submit.

892 F. The results of the investigation shall be reduced to written findings of fact and  
893 the finding shall be made that there either is or is not reasonable cause for believing that  
894 the respondent has violated this chapter.

895 G. If a finding is made that there is no reasonable cause, the finding shall be  
896 served or mailed, by certified mail, return receipt requested, to the complainant and the  
897 respondent, and a copy shall be provided to the board of ethics.

898 H.1.a. If the finding is made that reasonable cause exists to believe that the  
899 respondent has violated this chapter, the ((ombuds)) office of public complaints shall  
900 prepare an order to that effect, a copy of which shall be served or mailed, by certified  
901 mail, return receipt requested, to the respondent, and the original thereof filed with the  
902 board of ethics. The ((ombuds)) office of public complaints shall provide a copy of the  
903 order to the prosecuting attorney's office. Such a reasonable cause order shall include:

- 904 (1) a finding that one or more violations of the chapter has occurred;
- 905 (2) the factual basis for the finding;
- 906 (3) any civil penalties; and
- 907 (4) a notice informing the respondent that the respondent has the right to  
908 request a hearing before the board of ethics as set forth in K.C.C. 3.04.057.

909 b. A reasonable cause order may also include any recommendations for  
910 disciplinary action to the respondent's appointing authority.

911 2. In determining civil penalties, the ((ombuds)) office of public complaints may  
912 consider any notification made by the employee under K.C.C. 3.04.037 as a mitigating  
913 factor.

914 3. If the respondent does not request an appeal hearing in a timely manner under  
915 K.C.C. 3.04.057, the ((ombuds)) office of public complaints shall provide a copy of the  
916 reasonable cause order to the complainant and the respondent's appointing authority.

917 I.1. At any stage in the investigation, the respondent may agree to an early  
918 resolution agreement in lieu of a finding of reasonable cause by the ((ombuds)) office of  
919 public complaints.

920 2. An early resolution agreement may not be appealed.

921           3. The agreement shall be in writing and signed by the ((~~ombuds~~)) office of  
922 public complaints and the respondent.

923           4. The respondent shall acknowledge in the agreement that an ethical violation  
924 has occurred and that the agreement may not be appealed. The respondent may include a  
925 statement explaining circumstances surrounding the ethical violation.

926           5. The agreement shall identify the violations of the chapter that occurred, the  
927 factual basis for the violation, and any civil penalties, and may include any  
928 recommendations for disciplinary action to the respondent's appointing authority.

929           6. The agreement shall detail appropriate reporting and compliance  
930 requirements that shall be monitored by and reported to the ((~~ombuds~~)) office of public  
931 complaints. It shall also include a timeline for such reporting and compliance  
932 requirements.

933           7. The agreement shall state that the signed agreement is not effective unless  
934 approved by the board of ethics and that the board may require the respondent to attend a  
935 board hearing at which the respondent shall be required to respond to inquiries from the  
936 board regarding the agreement and the circumstances giving rise to the agreement.

937           8.a. The early resolution agreement is not effective unless approved by the  
938 board of ethics.

939           b. Within seven days of the ((~~ombuds~~)) office of public complaints and  
940 respondent signing the agreement, the ((~~ombuds~~)) office of public complaints shall file  
941 with the board the signed agreement and a report of all material facts the ((~~ombuds~~))  
942 office of public complaints considered material in reaching their decision to enter the  
943 early resolution agreement.

944 c. Upon an individual member of the board's request to the ((~~ombuds~~)) office  
945 of public complaints, the member shall have the ability to review either the complete  
946 ((~~ombuds~~)) office of public complaints investigative file or those documents supporting  
947 the specific material facts considered by the ((~~ombuds~~)) office of public complaints, or  
948 both.

949 d. Before taking action on the agreement, and unless otherwise by action of the  
950 board, the board shall require either the respondent or the ((~~ombuds~~)) office of public  
951 complaints, or both, to attend a hearing to respond to inquiries regarding the agreement  
952 and circumstances giving rise to the agreement. The hearing shall be conducted within a  
953 reasonable time after the board receives the signed agreement and related materials.  
954 Written notice of the time and place of the hearing shall be given to the respondent and  
955 ((~~ombuds~~)) office of public complaints at least ten days prior to the hearing date.

956 e. After a sufficient period for the board to consider the agreement, but no later  
957 than ninety days after the board receives the signed agreement and related materials, the  
958 board shall take one of the following actions:

959 (1) approve the agreement. The board shall send a copy of the approved early  
960 resolution agreement to the ((~~ombuds~~)) office of public complaints, who shall forward a  
961 copy to the respondent, the respondent's appointing authority, to the prosecuting  
962 attorney's office, and to the complainant;

963 (2) reject the agreement. If the early resolution agreement is rejected by the  
964 board, the ((~~ombuds~~)) office of public complaints shall complete the investigation in  
965 accordance with the provisions of this chapter; or

966 (3) refer the agreement back to the ((~~ombuds~~)) office of public complaints.

967 The board may direct that the agreement be revised and refer the agreement back to the  
968 ((~~ombuds~~)) office of public complaints. The board should identify the revisions to be  
969 made to the agreement before the board will consider approving the agreement. In the  
970 event either the ((~~ombuds~~)) office of public complaints or respondent choose not to  
971 amend the agreement, the ((~~ombuds~~)) office of public complaints shall complete the  
972 investigation in accordance with the provisions of this chapter. Any revised agreement  
973 must be resubmitted to the board for action in accordance with this subsection I.8.

974 f. After taking final action on an agreement, the board may choose to advise  
975 the ((~~ombuds~~)) office of public complaints in writing of its determination that  
976 administrative acts by an administrative agency contributed to the respondent's violation  
977 of this chapter and request the ((~~ombuds~~)) office of public complaints to consider  
978 exercising its authority under K.C.C. 2.52.090 to investigate such administrative acts by  
979 the administrative agency. The board may also choose to report its determination that  
980 improper governmental actions contributed to the respondent's violation of this chapter  
981 and request the appropriate investigating official, under K.C.C. 3.42.030.D., who is not  
982 the ((~~ombuds~~)) office of public complaints exercise its authority under K.C.C. 3.42.055 to  
983 investigate the report.

984 g. If the board fails to take action as set forth in this subsection I.8., the early  
985 resolution agreement shall be effective.

986 9. The ((~~ombuds~~)) office of public complaints shall monitor the respondent's  
987 compliance to the early resolution agreement and the appointing authority's action in  
988 response to any disciplinary recommendations in the agreement. The ((~~ombuds~~)) office

989 of public complaints shall submit a report to the board of ethics within thirty days after  
990 the reporting and compliance deadline set forth in the agreement that details the  
991 respondent's compliance to the agreement and the appointing authority's response to  
992 disciplinary recommendations.

993 SECTION 29. Ordinance 9704, Section 10, as amended, and K.C.C. 3.04.057 are  
994 hereby amended to read as follows:

995 A. Any respondent who disagrees with an order of reasonable cause (~~of the~~  
996 ~~ombuds~~) issued by a division within office of public complaints may file a written  
997 request, within twenty days of the service of the order upon the respondent or delivery of  
998 the order by certified mail, for an appeal hearing before the board of ethics. The request  
999 shall be filed with the board of ethics, with a copy provided to the (~~ombuds~~) division of  
1000 the office of public complaints that issued the order. The request shall cite the order  
1001 appealed from and specify with particularity the findings being contested.

1002 B. Any order of reasonable cause issued by (~~the ombuds~~) a division within  
1003 office of public complaints pursuant to K.C.C. 3.04.055 shall become final twenty days  
1004 after service of the order or delivery of the order by certified mail, unless a timely written  
1005 request for an appeal hearing is filed as set forth (~~above~~) in subsection A. of this  
1006 section.

1007 C. If an order of reasonable cause has been timely appealed, a hearing shall be  
1008 conducted by the board of ethics for the purpose of affirming, reversing or modifying the  
1009 order. The parties to the hearing shall be the respondent and the (~~ombuds or designee~~)  
1010 division within the office of public complaints that issued the order of reasonable cause.

1011 There shall be a verbatim record kept of the hearing and the board of ethics shall have the

1012 power to administer oaths and affirmations, issue subpoenas and compel attendance, take  
1013 evidence and require the production of any books, papers, correspondence, memoranda or  
1014 other records relevant or material to the hearing. The burden of proving that a violation  
1015 occurred shall at all times be upon the ~~((ombuds))~~ division. The board of ethics's  
1016 decision shall be based upon a preponderance of the evidence. Such a hearing shall be  
1017 conducted within a reasonable time after receipt of the request for appeal. Written notice  
1018 of the time and place of the hearing shall be given to the parties at least ten days prior to  
1019 the hearing date.

1020 D. At the hearing, each party shall have the following rights:

- 1021 1. To call and examine witnesses on any matter relevant to the issues raised by  
1022 the order of ~~((the ombuds or designee))~~ reasonable cause;
- 1023 2. To introduce documentary and physical evidence;
- 1024 3. To cross-examine opposing witnesses on any relevant matter;
- 1025 4. To impeach any witness regardless of which party first called the witness to  
1026 testify;
- 1027 5. To rebut evidence against the party; and
- 1028 6. To self-represent or to be represented by anyone of the party's choice who is  
1029 lawfully permitted to do so.

1030 E. Following review of the evidence submitted, the board shall within a  
1031 reasonable time enter written findings and conclusions and shall affirm or modify the  
1032 order previously issued if the board finds that one or more violations of this chapter  
1033 ~~((has))~~ have occurred. The board shall reverse the order if it finds no violations of this  
1034 chapter have occurred. A copy of the board's decision shall be served or mailed, by

1035 certified mail, return receipt requested, to the respondent, and the original thereof  
1036 retained by the board. The board shall provide a copy of its decision to the ((~~ombuds~~))  
1037 respective division within office of public complaints, the respondent's appointing  
1038 authority, the prosecuting attorney's office and the complainant.

1039 SECTION 30. Ordinance 1321, Section 4, as amended, and K.C.C. 3.04.100 are  
1040 hereby amended to read as follows:

1041 In addition to its other authorities set forth in this chapter, whenever requested by  
1042 a county officer or employee, or whenever it deems it in the public interest, the board of  
1043 ethics shall render advisory opinions, in writing, concerning questions of ethics, conflicts  
1044 of interest, and the applicability of the code of ethics. Copies of the opinion shall be  
1045 delivered to any officer or employee requesting the opinion, the ((~~ombuds~~)) office of  
1046 public complaints, the county executive, and all members of the King County council.

1047 SECTION 31. Ordinance 9704, Section 13, as amended, and K.C.C. 3.04.130 are  
1048 hereby amended to read as follows:

1049 The ((~~ombuds~~)) office of public complaints and the board of ethics are each  
1050 authorized to implement such forms, administrative processes, and operational  
1051 procedures as are necessary to comply with the provisions of this chapter. Any rules  
1052 governing the conduct of contested hearings shall be promulgated in compliance with  
1053 K.C.C. chapter 2.98, Rules of County Agencies.

1054 The executive is directed to prepare, with the assistance of council staff, the office  
1055 of the prosecuting attorney, the ((~~ombuds~~)) office of public complaints and the board of  
1056 ethics, information regarding the provisions of this chapter to be made available to  
1057 employees and members of boards and commissions. The availability of these materials

1058 and of copies of this chapter shall be described in a summary form, which shall be  
1059 distributed to all new county employees, who shall sign and return the form within two  
1060 weeks of commencing work for King County or at the new employee orientation,  
1061 whichever is sooner. A summary of the ethics code shall also be distributed to all county  
1062 employees at least once every two years, and any time there are material changes to this  
1063 chapter.

1064 SECTION 32. Ordinance 11687, Section 2, as amended, and K.C.C. 3.42.020 are  
1065 hereby amended to read as follows:

1066 The definitions in this section apply throughout this chapter unless the context  
1067 clearly requires otherwise.

1068 A. "Appropriate investigating official" means an investigating official acting  
1069 within the investigating official's respective jurisdiction as identified in K.C.C.  
1070 3.42.030.D. or any assistant or representative authorized to receive documents on the  
1071 investigating official's behalf, except that for the department of public safety, the only  
1072 appropriate investigating official shall be the internal investigations unit or any assistant  
1073 or representative authorized to receive documents on its behalf.

1074 B. "Employee" or "county employee" means any individual who is appointed as  
1075 an employee by the appointing authority of a county agency, office, department, council,  
1076 board, commission or other separate unit or division of county government, however  
1077 designated. The term "employee" or "county employee" also includes county elected  
1078 officials and members of county boards, commissions, committees, or other multimember  
1079 bodies.

1080 C. "Good faith" means the individual providing the information or report of  
1081 improper governmental action has a reasonable basis in fact for reporting or providing the  
1082 information. An individual who knowingly provides or reports, or who reasonably ought  
1083 to know that the information or report is malicious, false or frivolous, or information that  
1084 is provided with reckless disregard for the truth, is not acting in good faith.

1085 D. "Gross mismanagement" means the exercise of management responsibilities  
1086 in a manner grossly deviating from the standard of care or competence that a reasonable  
1087 person would observe in the same situation.

1088 E. (~~"Gross waste of public funds" means to spend or use public funds or to allow~~  
1089 ~~public funds to be used without valuable result in a manner grossly deviating from the~~  
1090 ~~standard of care or competence that a reasonable person would observe in the same~~  
1091 ~~situation.~~)

1092 F.)1. "Improper governmental action" means any action by a county officer or  
1093 employee that is undertaken in the performance of the officer's or employee's official  
1094 duties, whether or not the action is within the scope of employment, and:

- 1095 a. violates any state or federal law or rule or county ordinance or rule;
- 1096 b. constitutes an abuse of authority;
- 1097 c. is gross mismanagement;
- 1098 d. creates a substantial and specific danger to the public health or safety;
- 1099 e. results in a (~~gross~~) waste of public (~~funds~~) moneys;
- 1100 f. results in abuse of public moneys;
- 1101 g. results in fraud; or

1102            (~~(f)~~) h. prevents the dissemination of scientific opinion or alters technical  
1103 findings without scientifically valid justification, unless disclosure is legally prohibited.

1104 This subsection (~~(G-)~~)E.1.(~~(f)~~) h. is not meant to preclude the discretion of agency  
1105 management to adopt a particular scientific opinion or technical finding from among  
1106 differing opinions or technical findings to the exclusion of other scientific opinions or  
1107 technical findings.

1108            2. "Improper governmental action" does not include violations of  
1109 antidiscrimination laws, violations of collective bargaining or civil service laws, or  
1110 alleged violations of agreements with labor organizations under collective bargaining. A  
1111 properly authorized county program or activity does not become an "improper  
1112 governmental action" because an employee or investigating official dissents from the  
1113 county policy or considers the expenditures unwise.

1114            (~~(G-)~~) F. "Investigating official" means any individual to whom a report may be  
1115 made pursuant to K.C.C. 3.42.030.D. or any assistant or representative authorized to  
1116 receive documents on the investigating official's behalf.

1117            (~~(H-)~~) G. "Retaliate," "retaliation" and "retaliatory action," means to make any  
1118 unwarranted adverse change in an employee's employment status or the terms and  
1119 conditions of employment including, but not limited to:

- 1120            1. Denial of adequate staff to perform duties;
- 1121            2. Frequent staff changes;
- 1122            3. Frequent and undesirable office changes;
- 1123            4. Refusal to assign meaningful work;

- 1124           5. Unwarranted and unsubstantiated letters of reprimand or unsatisfactory  
1125 performance evaluations;
- 1126           6. Demotion;
- 1127           7. Reduction in pay;
- 1128           8. Denial of promotion;
- 1129           9. Denial of training or benefits;
- 1130           10. Transfer or reassignment;
- 1131           11. Suspension or dismissal;
- 1132           12. Other unwarranted disciplinary action;
- 1133           13. A supervisor or senior manager or official behaving in or encouraging  
1134 coworkers to behave in a hostile manner toward the employee, or failing to take  
1135 appropriate action to prevent coworkers from behaving in a hostile manner toward the  
1136 employee.

1137           ~~((F))~~ H. "Substantial and specific danger" means a risk of serious injury, illness,  
1138 peril, or loss, to which the exposure of the public is a gross deviation from the standard of  
1139 care or competence which a reasonable person would observe in the same situation.

1140           I. "Waste" means the thoughtless or careless expenditure, mismanagement, or  
1141 abuse of resources to the detriment, or potential detriment of the county. Waste also  
1142 includes incurring unnecessary costs resulting from inefficient or ineffective practices,  
1143 systems, or controls.

1144           J. "Written report of improper governmental action" means any writing that  
1145 alleges that an improper governmental action has occurred and describes the basis for that  
1146 belief.

1147            SECTION 33. Ordinance 11687, Section 4, as amended, and K.C.C. 3.42.030 are  
1148 hereby amended to read as follows:

1149            A. Every county employee shall have the right to report, in good faith in  
1150 accordance with Ordinance 11687, information concerning an improper governmental  
1151 action.

1152            B. In reporting improper governmental action, the employee is encouraged, but  
1153 not required, to make a written report first to any investigating official as defined by  
1154 K.C.C. 3.42.020.G; the employee is encouraged to consult with the office of the  
1155 ~~((ombuds))~~ public complaints in order to determine to whom a written report should be  
1156 made.

1157            C.1. This section does not authorize a county employee to report information that  
1158 is subject to an applicable privilege against disclosure at law (e.g., RCW 5.60.060  
1159 privileged communications) unless waived, or to make disclosure where prohibited at  
1160 law.

1161            2. An employee making a written report under this subsection is encouraged to  
1162 wait at least thirty days from receipt of the written report by the investigating official  
1163 before reporting the improper governmental action to a person who is not an investigating  
1164 official. However, reporting to a person who is not an investigating official before this  
1165 thirty-day period will not result in the loss of the protections in this chapter.

1166            3. An employee's reporting of the employee's own improper action does not  
1167 grant the employee immunity from discipline or termination insofar as the employee's  
1168 improper action would be cause for discipline.

1169 D. For purposes of this chapter, the person to whom a written report should be  
1170 made is as follows:

1171 1. Reporting sexual harassment to the employee's supervisor, department head  
1172 or other government official as set out in the county's adopted procedure for reporting  
1173 sexual harassment complaints;

1174 2. Reporting violations of the fair employment practices ordinance, which is  
1175 K.C.C. chapter 12.18, to the executive or the executive's designee;

1176 3. Reporting police misconduct to the department of public safety's internal  
1177 investigation unit or to the office of law enforcement oversight;

1178 4. Reporting violations of the Code of Judicial Conduct to the Washington  
1179 state Commission on Judicial Conduct;

1180 5. Reporting improper governmental action occurring within the district court  
1181 to the presiding judge of the district court;

1182 6. Reporting improper governmental action occurring within the legislative  
1183 branch to the chair of the council or to the prosecutor;

1184 7. Reporting improper governmental action occurring within the executive  
1185 branch to the executive or to the department director of the executive agency in which the  
1186 alleged improper governmental action occurred or to the ~~((ombuds))~~ office of public  
1187 complaints;

1188 8. Reporting improper governmental action occurring within the department  
1189 of judicial administration to the director/clerk of the superior court or to the ~~((ombuds))~~  
1190 office of public complaints;

1191           9. Reporting improper governmental action occurring within the department  
1192 of assessments to the assessor or to the ((~~ombuds~~)) office of public complaints;

1193           10. Reporting improper governmental action occurring within the department  
1194 of elections to the director of elections or to the ((~~ombuds~~)) office of public complaints;

1195           11. Reporting improper governmental action occurring within the superior  
1196 court to the presiding judge of the superior court;

1197           12. Reporting violations of criminal laws to the sheriff or the county  
1198 prosecuting attorney;

1199           13. Reporting improper governmental action of the county prosecuting  
1200 attorney to the state auditor or the attorney general;

1201           14. Reporting improper governmental action occurring within the office of  
1202 economic and financial analysis to any member of the forecast council or to the  
1203 ((~~ombuds~~)) office of public complaints;

1204           15. Reporting violations of K.C.C. chapter 3.04, the Employee Code of  
1205 Ethics, to the ((~~ombuds~~)) office of public complaints; and

1206           16. Reporting any improper governmental action for which no other  
1207 appropriate recipient of a report is listed in subsection D.1. through 15. of this section to  
1208 the ((~~ombuds~~)) office of public complaints.

1209           E. Any one or more of the following conduct by employees is protected under  
1210 this chapter:

1211           1. Reporting improper governmental action;

1212                   2. Cooperating in an investigation by any official related to improper  
1213 governmental action, including but not limited to local, state, federal, and internal  
1214 investigation; and

1215                   3. Testifying in any official proceeding, hearing, or prosecution arising out of  
1216 an improper governmental action.

1217                   F. A county officer or employee shall not retaliate, attempt to retaliate or  
1218 threaten to retaliate against any employee because that employee has in good faith  
1219 engaged in conduct protected by K.C.C. 3.42.030.E., or because the county officer or  
1220 employee believes the employee has engaged or will engage in such conduct, whether or  
1221 not such conduct actually occurred.

1222                   G. Any county officer or employee who engages in retaliatory action  
1223 prohibited by K.C.C. 3.42.030.F. is subject to disciplinary action including, but not  
1224 limited to, suspension without pay, demotion or termination. In addition, any elected  
1225 official who engages in retaliatory action prohibited by K.C.C. 3.42.030.F. is subject to  
1226 censure by motion of the council and also may be subject to recall from office due to  
1227 misfeasance or malfeasance in office.

1228                   H. Each appointing authority shall ensure that, upon entering county service  
1229 or any time there are material changes to this chapter, every county officer and employee  
1230 shall receive a written summary of this chapter, the procedures for reporting improper  
1231 governmental actions to investigating officials, the procedures for obtaining the  
1232 protections extended, the prohibition against retaliation in this section, and identification  
1233 of offices and resources available to help the employee understand the provisions of this  
1234 chapter including but not limited to the ((ombuds's)) office of public complaints. The

1235 ((ombuds's)) office of public complaints shall assist in the development of materials.  
1236 Copies of these summaries shall be conspicuously posted where all employees will have  
1237 reasonable access to them. Every county officer and employee shall also receive a  
1238 written summary of this chapter at least once every two years; the summary may be  
1239 distributed electronically.

1240 SECTION 34. Ordinance 11687, Section 6, as amended, and K.C.C. 3.42.050 are  
1241 hereby amended to read as follows:

1242 A. If the official receiving a complaint under this section is not the appropriate  
1243 investigating official identified in K.C.C. 3.42.030.D.1., the official receiving the  
1244 complaint shall immediately forward the written report to the appropriate investigating  
1245 official and notify the reporting employee of the referral.

1246 B. If a report of improper governmental action meets the definition of a  
1247 complaint under K.C.C. 3.04.055, the ((ombuds)) the office of public complaints, upon  
1248 receipt of the report, shall investigate that allegation according to the procedures in  
1249 K.C.C. chapter 3.04, the Employee Code of Ethics.

1250 C. If the ((ombuds)) the office of public complaints is an appropriate  
1251 investigating official ((and)) but the report does not meet the definition of a complaint  
1252 under K.C.C. chapter 3.04, the Employee Code of Ethics, the ((ombuds)) office of public  
1253 complaints upon receipt of the report may refer the report to the department director of  
1254 the agency in which the alleged improper governmental action occurred or to the chief  
1255 elected official of the branch of government implicated in the allegation; if the  
1256 ((ombuds)) office of public complaints does not refer to another official, or if the other  
1257 official's response is not timely or satisfactory to the ((ombuds)) office of public

1258 complaints, the ~~((ombuds))~~ applicable division within the office of public complaints  
1259 shall conduct an investigation in accordance with the procedures outlined in K.C.C.  
1260 3.42.057.

1261 D. If a report of improper governmental action is filed with an appropriate  
1262 investigating official who is not the ~~((ombuds))~~ office of public complaints, and a report  
1263 is concurrently filed with the ~~((ombuds))~~ office of public complaints, the ~~((ombuds))~~  
1264 office of public complaints may defer action until the investigation is completed by the  
1265 affected department, office or agency. When the ~~((ombuds))~~ office of public complaints  
1266 chooses to conduct a concurrent investigation the ~~((ombuds))~~ office of public complaints  
1267 shall notify the executive and the chair of the council.

1268 E. Decisions of the ~~((ombuds))~~ office of public complaints under this section may  
1269 not be appealed to the Board of Ethics.

1270 SECTION 35. Ordinance 16580, Section 6, as amended, and K.C.C. 3.42.055 are  
1271 hereby amended to read as follows:

1272 A. The procedures in this section shall apply to any investigating official except  
1273 ~~((the ombuds))~~ those within the office of public complaints or the judicial branch.  
1274 Investigations by the ~~((ombuds))~~ office of public complaints shall be conducted in  
1275 accordance with K.C.C. 3.42.057.

1276 B. When an appropriate investigating official who is not ~~((the ombuds))~~ within  
1277 the office of public complaints receives a report of improper governmental action, the  
1278 investigating official shall respond to the reporting employee in writing within thirty days  
1279 of when the report was received with either a final report or a preliminary report, with a  
1280 copy of the response to the ~~((ombuds))~~ office of public complaints. If responding with a

1281 preliminary report, the official shall include a summary of the status of the investigation  
1282 and information obtained thus far, and identifying matters for further research or inquiry.  
1283 If the identity of the reporting employee is not known, the response shall be sent to the  
1284 ((~~ombuds~~)) office of public complaints.

1285 C. The investigating official shall complete the investigation and issue a final  
1286 report no later than one year from when the report of improper governmental action was  
1287 received. If the final report concludes that there was improper governmental action, it  
1288 shall include an action plan for addressing the improper governmental action and provide  
1289 reasonable timelines for completing corrective actions.

1290 D. The investigating official shall send a copy of the final report to the reporting  
1291 employee and the ((~~ombuds~~)) office of public complaints.

1292 E. When conducting an investigation of improper governmental action occurring  
1293 within the legislative branch, the prosecutor may at any stage, issue subpoenas,  
1294 administer oaths, examine witnesses, and compel the production of documents or other  
1295 evidence; refer the matter to the state auditor, law enforcement authorities or other  
1296 governmental agency; and issue reports; or any combination thereof, each as deemed  
1297 appropriate.

1298 F. If the investigating official determines that that the employee reporting  
1299 improper governmental action has been retaliated against or is at great risk of retaliation,  
1300 the investigating official may seek temporary preventive action, including but not limited  
1301 to the transfer of the reporting employee to another department at the request of the  
1302 reporting employee or authorizing leave with pay for the reporting employee. If the  
1303 investigating official deems it necessary, the investigating official's recommendation may

1304 be made to the executive. Such a temporary preventative action may continue until the  
1305 conclusion of any investigation and a permanent resolution of the matter.

1306 G. To the extent allowed by law, investigating officials are encouraged to enter  
1307 into cooperative agreements or arrangements for receiving and processing complaints  
1308 with other agencies or entities that are investigating related complaints, so that  
1309 duplication of functions shall be minimized and multiple redundant investigations  
1310 avoided.

1311 SECTION 36. Ordinance 16580, Section 7, as amended, and K.C.C. 3.42.057 are  
1312 hereby amended to read as follows:

1313 A. The procedures in this section apply to the ~~((ombuds))~~ office of public  
1314 complaints when ~~((the ombuds))~~ a division within the office of public complaints is  
1315 investigating a report of an improper governmental action that is not investigated  
1316 according to the rules applicable to K.C.C. chapter 3.04, the Employee Code of Ethics.

1317 B. In determining whether to conduct an investigation, the ~~((ombuds))~~ director of  
1318 the applicable division within the office of public complaints may consider factors  
1319 including, but not limited to, the nature and quality of the evidence and the existence of  
1320 relevant laws and rules; whether the alleged improper governmental action was isolated  
1321 or systematic; the history of previous assertions regarding the same subject or subject  
1322 matter; whether other avenues are available for addressing the matter; whether the matter  
1323 has already been investigated or is in litigation; the seriousness or significance of the  
1324 asserted improper governmental action; and the cost and benefit of the investigation. The  
1325 ~~((ombuds))~~ director of the applicable division has the sole discretion to determine the

1326 priority and weight given to these or any other relevant factors and to decide whether a  
1327 matter is to be investigated.

1328 C. If the ((~~ombuds~~)) director of the applicable division elects not to investigate  
1329 the matter, the ((~~ombuds~~)) director of the applicable division shall, before making a final  
1330 decision to close the investigation, send a notice to the person who made the report  
1331 explaining the factors considered and the analysis applied, summarizing allegation  
1332 deficiencies if any, and providing a reasonable opportunity to reply. The notification  
1333 may be by electronic means.

1334 D. If the ((~~ombuds~~)) director of the applicable division within the office of public  
1335 complaints determines that that the employee reporting improper governmental action has  
1336 been retaliated against or is at great risk of retaliation, the ((~~ombuds~~)) director of the  
1337 applicable division may recommend to the head of the department that temporary  
1338 preventive action be taken, including but not limited to transferring the reporting  
1339 employee at the reporting employee's request to another department or authorizing leave  
1340 with pay for the reporting employee. If the ((~~ombuds~~)) director of the applicable division  
1341 deems it necessary, the ((~~ombud's~~)) director of the applicable division may make the  
1342 recommendation ((~~may be made~~)) directly to the executive instead. Such temporary  
1343 preventative action may continue until the conclusion of any investigation and a  
1344 permanent resolution of the matter.

1345 E. If the ((~~ombuds~~)) director of the applicable division within the office of public  
1346 complaints elects to conduct an investigation and it appears to the ((~~ombuds~~)) director of  
1347 the applicable division that the investigation will take longer than thirty days to complete,  
1348 the ((~~ombuds~~)) director of the applicable division shall, within thirty days after receiving

1349 the report of alleged improper governmental action, provide the complainant with a  
1350 preliminary written report that summarizes the procedural status of the investigation, the  
1351 information obtained thus far, any preliminary findings as the ((~~ombuds~~)) director of the  
1352 applicable division deems appropriate, and identifying matters for further research or  
1353 inquiry. The ((~~ombuds~~)) director of the applicable division shall also notify the subject or  
1354 subjects of the investigation and the agency head of the need for continued investigation.

1355 F. When conducting an investigation of a complaint, the ((~~ombuds~~)) director of  
1356 the applicable division within the office of public complaints may at any stage issue  
1357 subpoenas, administer oaths, examine witnesses, and compel the production of  
1358 documents or other evidence; refer the matter to the state auditor, law enforcement  
1359 authorities, or other governmental agency; and issue reports; or any combination thereof,  
1360 each as deemed appropriate.

1361 G.1. Upon completion of an investigation, the ((~~ombuds~~)) director of the  
1362 applicable division within the office of public complaints shall make a final written report  
1363 that summarizes the results of the investigation, including findings with regard to each  
1364 assertion of improper governmental action and recommended actions. The ((~~ombuds~~))  
1365 director of the applicable division shall complete the investigation and issue a final report  
1366 within one year of receipt of the report of improper governmental action.

1367 ((~~1.~~)) 2. If the ((~~ombuds~~)) director of the applicable division determines that no  
1368 improper governmental action has occurred, the ((~~ombuds~~)) director of the applicable  
1369 division shall send the report to the complainant, the subject or subjects of the  
1370 investigation and the agency head.

1371            ~~((2-))~~ 3. If the ~~((ombuds))~~ director of the applicable division determines that an  
1372 improper governmental action has occurred:

1373            a. The ~~((ombuds))~~ director of the applicable division shall give the subject of  
1374 the report an opportunity to respond before issuing a final report~~((-))~~;

1375            b. The ~~((ombuds))~~ director of the applicable division shall send the report to:  
1376 the complainant; the head of the department with responsibility for the action or if a  
1377 department head is implicated, to the executive and county council; and such other  
1378 governmental officials or agencies as the ~~((ombuds))~~ director of the applicable division  
1379 deems appropriate. The ~~((ombuds))~~ director of the applicable division shall also send a  
1380 copy of the written report to the executive or the county council if requested to do so by  
1381 the complainant, if the director of the applicable division has not already done so~~((-))~~;

1382            c. The department with responsibility for the improper governmental action  
1383 shall report back to the ~~((ombuds))~~ director of the applicable division and complainant  
1384 with an action plan for addressing the improper governmental action and provide  
1385 reasonable timelines for completing its corrective actions. The department's response  
1386 should be made within fourteen days of receipt of the ~~((ombuds))~~ director of the  
1387 applicable division's report. If the ~~((ombuds))~~ director of the applicable division deems  
1388 that satisfactory action within a reasonable timeframe has not been achieved, the  
1389 ~~((ombuds))~~ director of the applicable division shall report the ~~((ombuds))~~ director of the  
1390 applicable division's determination to the executive and the county council~~((-))~~; and

1391            d. The ~~((ombuds))~~ office of public complaints may impose a fine of not greater  
1392 than ten thousand dollars on the department within which the improper governmental  
1393 action occurred. A fine should be imposed for improper governmental actions that are

1394 exceptionally egregious or for which corrective actions have been highly unsatisfactory.  
1395 The department shall be given a reasonable opportunity to be heard before imposition of  
1396 any fine. Proceeds collected from any fine shall be deposited into an account to be used  
1397 for the purpose of educating employees about this chapter or may be applied by the  
1398 department toward the cost of administrative leave paid to the employee reporting the  
1399 improper governmental action where the reason for the administrative leave is related to  
1400 the employee's reporting.

1401 H.1. At any stage in the investigation, the ~~((ombuds))~~ director of the applicable  
1402 division may, with the agreement of the parties, recommend, arrange for, convene, or  
1403 conduct voluntary mediation between the employee and either the subject of the  
1404 investigation or agency head, or both, with cost sharing, if any, to be determined by the  
1405 parties.

1406 ~~((1-))~~ 2. If the parties reach agreement as a result of mediation, the ~~((ombuds))~~  
1407 director of the applicable division may close the investigation.

1408 ~~((2-))~~ 3. The response times from subsection E. of this section shall be tolled for  
1409 the duration of the mediation process.

1410 ~~((3-))~~ 4. Mediation and other informal resolution processes are voluntary. No  
1411 employer or employee shall be pressured into participating in such processes, and no  
1412 negative inferences shall be drawn if any party declines to participate in such processes.  
1413 If a party agrees to participate in voluntary mediation or other informal resolution  
1414 process, that party is under no obligation to accept the resolution recommended by the  
1415 mediator, the ~~((ombuds))~~ director of the applicable division, or any other person

1416 participating in this process, and no negative inferences shall be drawn as a result of a  
1417 refusal to accept such recommendations.

1418 I. The ((ombuds)) director of the applicable division may close an investigation  
1419 at any time the ((ombuds)) director of the applicable division determines that no further  
1420 action is warranted and shall so notify the complainant, the subject or subjects of the  
1421 investigation and the agency head. The ((ombuds)) director of the applicable division  
1422 shall also issue any reports as required by this section.

1423 J. Decisions of the ((ombuds)) director of the applicable division under this  
1424 section may not be appealed to the board of ethics.

1425 SECTION 37. Ordinance 11687, Section 7, as amended, and K.C.C. 3.42.060 are  
1426 hereby amended to read as follows:

1427 A. In order to seek relief, an employee who believes the employee has been  
1428 retaliated against in violation of K.C.C. 3.42.030.E. must file a signed written complaint  
1429 within six months of when the alleged retaliation occurred or the employee reasonably  
1430 should have known of the occurrence. The complaint shall be filed with the ((ombuds))  
1431 office of public complaints and must specify the alleged retaliatory action and the relief  
1432 requested.

1433 B. The ((ombuds)) director of the applicable division within the office of public  
1434 complaints shall conduct an investigation of the alleged retaliatory action except that  
1435 complaints involving the judicial branch shall be forwarded to the appropriate  
1436 investigating official for that branch for investigation and complaints involving  
1437 councilmembers shall be forwarded to and investigated by the prosecutor.

1438 C. When conducting an investigation, the ~~((ombuds))~~ director of the applicable  
1439 division or prosecutor may at any stage, issue subpoenas, administer oaths, examine  
1440 witnesses, and compel the production of documents or other evidence; refer the matter to  
1441 the state auditor, law enforcement authorities or other governmental agency; and issue  
1442 reports; or any combination thereof, each as deemed appropriate.

1443 D. If it appears to the ~~((ombuds))~~ director of the applicable division within the  
1444 office of public complaints or prosecutor after conducting an investigation that no  
1445 retaliation has occurred, the ~~((ombuds))~~ director of the applicable division or prosecutor  
1446 shall so notify the complainant summarizing the ~~((ombuds))~~ director of the applicable  
1447 division's or prosecutor's findings and providing a reasonable opportunity for the  
1448 complainant to reply before making a final determination.

1449 E. The ~~((ombuds))~~ director of the applicable division within the office of public  
1450 complaints or prosecutor shall, within forty-five days after ~~((receiving))~~ the office of  
1451 public complaints receives the report of alleged retaliatory action, provide the  
1452 complainant with a written report that summarizes the results of the investigation,  
1453 including findings with regard to each assertion of retaliation and recommended actions.  
1454 The ~~((ombuds))~~ director of the applicable division or prosecutor shall also send a copy of  
1455 the written report to any governmental officials or agencies as the ~~((ombuds))~~ director of  
1456 the applicable division or ~~((prosecuter))~~ prosecutor deems appropriate. If the ~~((ombuds))~~  
1457 director of the applicable division or prosecutor finds that additional time is needed to  
1458 complete the report, the ~~((ombuds))~~ director of the applicable division or ~~((prosecuter))~~  
1459 prosecutor shall notify the complainant in writing before the expiration of the forty-five  
1460 day response period, and shall specify the reasons that additional time is required. The

1461 effect of the notice is to extend for forty-five days the time period in which a response  
1462 must be made. Only two such extensions may be made.

1463 F. The following apply to investigations by the ((ombuds)) office of public  
1464 complaints under this section((-):

1465 1. If it appears to the ((ombuds)) director of the applicable division within the  
1466 office of public complaints at any stage in the process that the complainant is at great risk  
1467 of retaliation, the ((ombuds)) director of the applicable division may recommend to the  
1468 head of the department that temporary preventive action be taken, including but not  
1469 limited to transferring the individual to another department or authorizing leave with pay.  
1470 If the ((ombuds)) director of the applicable division deems it necessary, the ((ombuds))  
1471 director of the applicable division recommendation may be made to the executive instead.  
1472 Such temporary preventative action may continue until the conclusion of any  
1473 investigation and a permanent resolution of the matter;

1474 2. If the ((ombuds)) director of the applicable division determines that no  
1475 retaliatory action has occurred, the ((ombuds)) director of the applicable division shall  
1476 send the report to the complainant, the subject or subjects of the investigation and the  
1477 agency head; and

1478 3. If the ((ombuds)) director of the applicable division determines that  
1479 retaliatory action has occurred:

1480 a. The ((ombuds)) director of the applicable division shall give the subject of  
1481 the investigation an opportunity to respond before issuing a final report;

1482 b. The ((ombuds)) director of the applicable division shall send the report to:  
1483 the complainant; the head of the department with responsibility for the action or if a

1484 department head is implicated, to the executive and county council, and to such other  
1485 governmental officials or agencies as the ((ombuds)) director of the applicable division  
1486 deems appropriate. The ((ombuds)) director of the applicable division shall also send a  
1487 copy of the written report to the executive or the county council if requested to do so by  
1488 the complainant, if the ((ombuds)) director of the applicable division has not already done  
1489 so;

1490 c. The department with responsibility for the retaliatory action shall report  
1491 back to the ((ombuds)) director of the applicable division and complainant with an action  
1492 plan for addressing the retaliatory action and provide reasonable timelines for when the  
1493 corrective actions will occur. The department's response should be made within fourteen  
1494 days of receipt of the ((ombuds)) director of the applicable division report;

1495 d. If the ((ombuds)) director of the applicable division deems that the  
1496 responsible department has not taken satisfactory action within a reasonable timeframe,  
1497 the ((ombuds)) director of the applicable division shall report the ((ombuds)) director of  
1498 the applicable division's determination to the executive and the county council; and

1499 e. The ((ombuds)) director of the applicable division may impose a fine on  
1500 the department within which the retaliatory action occurred; the ((ombuds)) director of  
1501 the applicable division shall not impose a fine greater than ten thousand dollars. A fine  
1502 should be imposed for retaliatory actions where the department's response to the  
1503 retaliatory actions was grossly inadequate. The department shall be given a reasonable  
1504 opportunity to be heard before imposition of any fine. Proceeds collected from any fine  
1505 shall be deposited into an account to be used for the purpose of educating employees  
1506 about this chapter or applied by the department toward administrative leave paid to the

1507 complainant where the reason for the administrative leave is related to the retaliation  
1508 claim.

1509 G.1. At any stage in the investigation, the ~~((ombuds))~~ director of the applicable  
1510 division within the office of public complaints or prosecutor may, with the agreement of  
1511 the parties, recommend, arrange for, convene or conduct voluntary mediation between the  
1512 employee and the subject of the investigation and/or agency head.

1513 ~~((1-))~~ 2. If the employer and employee reach agreement as a result of a  
1514 mediation, the investigation shall be closed and the employee shall not be entitled to seek  
1515 a hearing under subsection I. of this section.

1516 ~~((2-))~~ 3. If the employer and employee fail to reach agreement, the response  
1517 times from subsection C. of this section shall be tolled for the duration of the mediation  
1518 process.

1519 ~~((3-))~~ 4. Mediation and other informal resolution processes are voluntary. No  
1520 employer or employee shall be pressured into participating in such processes, and no  
1521 negative inferences shall be drawn if any party declines to participate in such processes.  
1522 If a party agrees to participate in voluntary mediation or other informal resolution  
1523 process, that party is under no obligation to accept the resolution recommended by the  
1524 mediator, the ~~((ombuds))~~ director of the applicable division, or any other person  
1525 participating in this process, and no negative inferences shall be drawn as a result of a  
1526 refusal to accept such recommendations.

1527 H. The ~~((ombuds))~~ director of the applicable division or prosecutor may close an  
1528 investigation at any time the ~~((ombuds))~~ director of the applicable division or prosecutor  
1529 determines that no further action is warranted and shall so notify the complainant, the

1530 subject or subjects of the investigation and the agency head. The ((~~ombuds~~)) director of  
1531 the applicable division or prosecutor shall also issue any reports as required by this  
1532 section.

1533 I. Decisions of the ((~~ombuds~~)) director of the applicable division within the office  
1534 of public complaints under this section may not be appealed to the board of ethics.

1535 J. If an employee who has filed a complaint of retaliation under this section is  
1536 dissatisfied with the progress of the investigation or the response and desires a hearing  
1537 ((~~under RCW 42.41.040~~)), the employee shall deliver a request for hearing to the head of  
1538 the branch within which retaliation is alleged to have occurred within the later of: one  
1539 year of when the alleged retaliation occurred or the employee reasonably should have  
1540 known of the occurrence; or ninety days from receipt of the department's response under  
1541 K.C.C. 3.42.060E.2.b. The employee shall notify the ((~~ombuds~~)) office of public  
1542 complaints of the request. Within five working days of receipt of the request for hearing,  
1543 the county shall apply to the state office of administrative hearings for a hearing to be  
1544 conducted as provided in RCW 42.41.040(4) through (9).

1545 K. An employee shall not have the right to seek a hearing under this section if the  
1546 complaint of retaliation is pursued under and falls within the subject matter jurisdiction of  
1547 a collective bargaining agreement grievance procedure ending in binding arbitration or  
1548 the career service grievance procedure ending in a hearing before the personnel board.

1549 L. To the extent allowed by law, investigating officials are encouraged to enter  
1550 into cooperative agreements or arrangements for receiving and processing complaints  
1551 with other agencies or entities that are investigating related complaints, so that

1552 duplication of functions shall be minimized and multiple redundant investigations  
1553 avoided.

1554 SECTION 38. This ordinance takes effect July 1, 2026.

1555 SECTION 39. If any provision of this ordinance or its application to any person

1556 or circumstance is held invalid, the remainder of the ordinance or the application of the  
1557 provision to other persons or circumstances is not affected.

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Sarah Perry, Chair

ATTEST:

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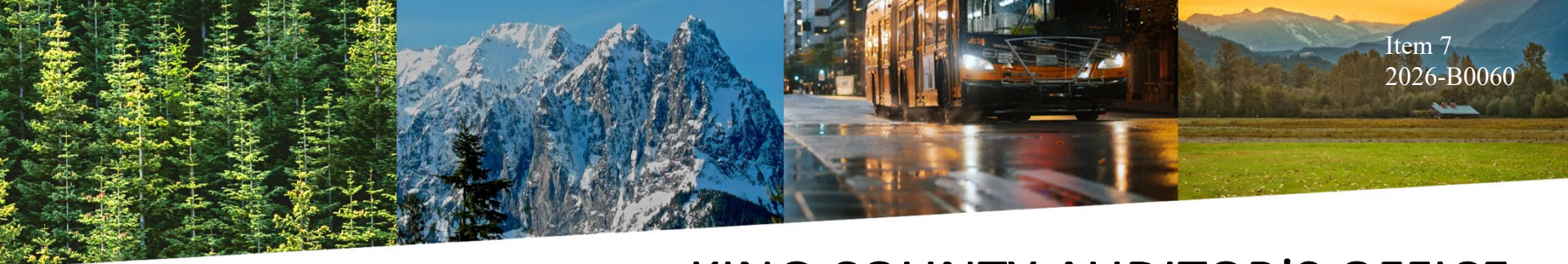
Melani Hay, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Girmay Zahilay, County Executive

**Attachments:** None



# KING COUNTY AUDITOR'S OFFICE

Kymber Waltmunson, County Auditor

## Auditor on Fraud and Ethics Issues

Kymber Waltmunson

May 12, 2026 | GOVERNMENT ACCOUNTABILITY AND OVERSIGHT COMMITTEE

GAO Meeting Materials

179 of 192

May 12, 2026



# Implementing recs will prevent future issues

- Strategy to strengthen fiscal controls
- Ongoing anti-fraud training for staff and mgt
- Train grantees on role in fiscal stewardship
- Enforce subcontracting requirements
- Create policies, checklists, and training



# Gaps in fraud management that contributed

1. Lack of internal fraud investigation capacity
2. Complex policy environment
3. Gaps in independent contract oversight
4. No clear reporting path
5. Limited fraud and ethics awareness
6. Limited information and analytics



# Ethics Code needs full rewrite

Ethics code lacks clear and sufficient guidance on appropriate conduct.



Address loopholes

—Subcontractors, relationships



Plain language



Add training

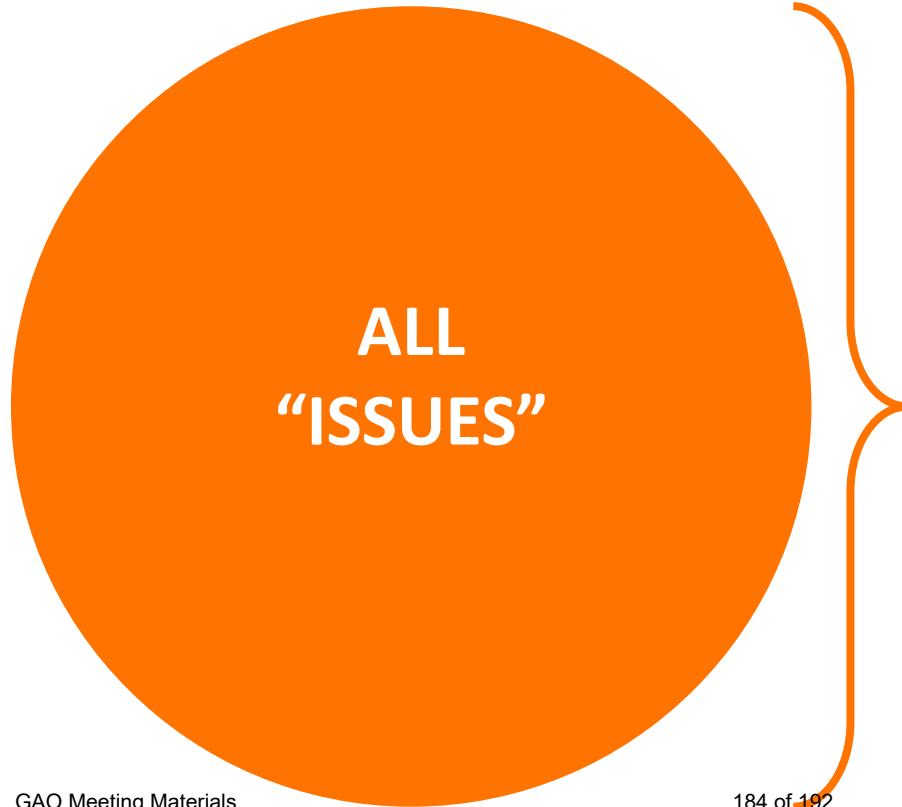


# Ethics Code needs full rewrite

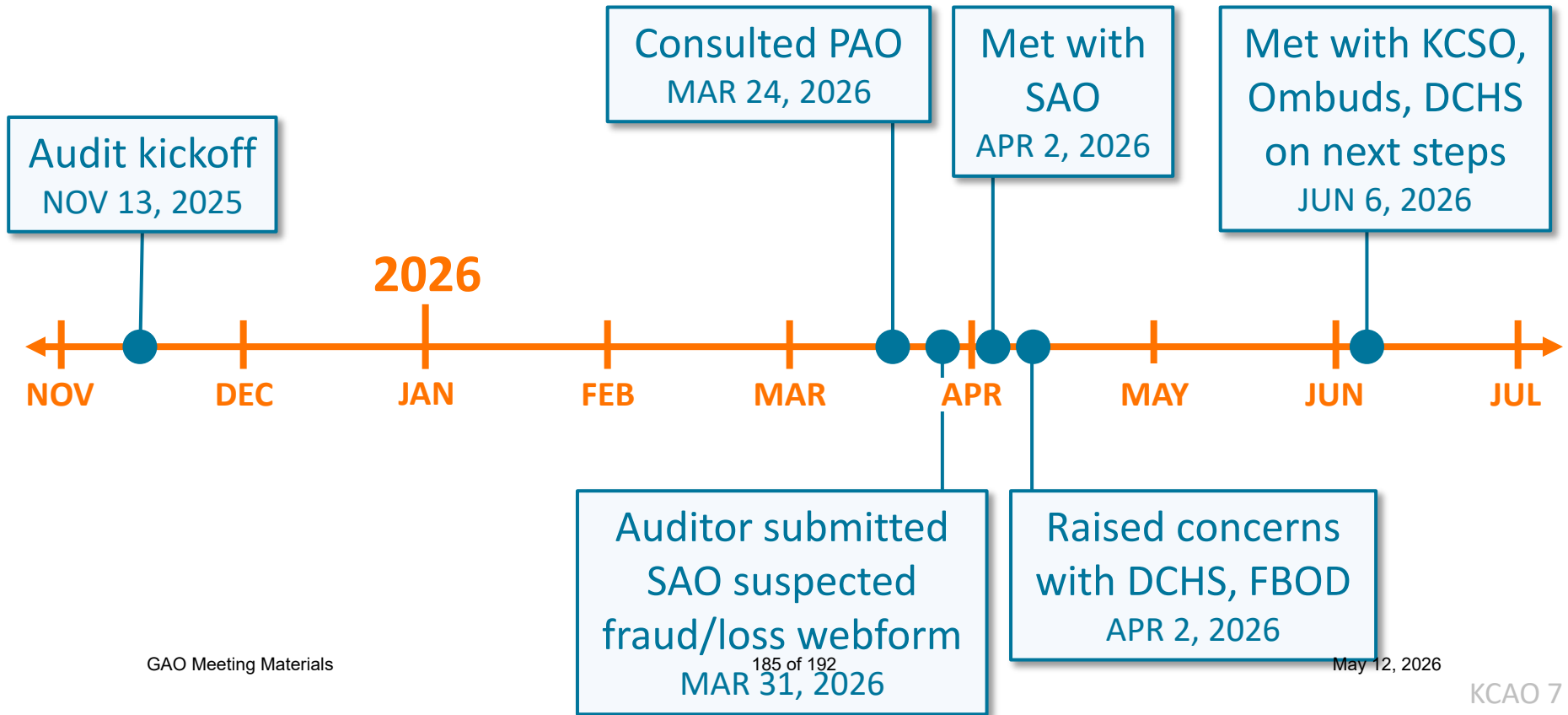
1. Does it align with your values?
2. Does it align with laws, policies, and County values?
3. Is it in the best interest of the communities you serve?
4. Are you willing to explain actions to management?
5. Would an informed resident approve of your actions?

If any of these is less than a full yes, seek guidance.

# Improper acts reports



# Audit engagement timeline



# Citizens' Election Oversight Committee 2025 Annual Report

Christopher Hays, CEOC Chair



# Roadmap

2025 Report to the King County Council Highlights

Partnership with King County Elections (KCE)

Emerging Issues and Looking Forward

Key Takeaways

# 2025 Report to the King County Council Highlights

- CEOC held 5 committee meetings and 15 workgroup meetings
- 100% of members received their observation training and majority observed at least one election
- CEOC recommends King County Council consider adopting a proclamation expressing support for King County Elections' system

# Partnership with King County Elections (KCE)

- King County Elections presented on multiple occasions
- Director Wise provided regular updates

# Emerging Issues and Looking Forward

- Commitment to focus on language access in 2026
- Mail-in voting and federal updates
- Found ballots
- CEOC vacancies
- Fieldtrip to King County Elections' printing vendor
- Remarks from Secretary of State Steve Hobbs anticipated in September 2026

# Key Takeaways

1. King County Elections administers accurate and fair elections
2. CEOC members are engaged and excited
3. CEOC recommends the Council consider adopting a proclamation in support of King County Elections

# QUESTIONS?

