

RECEIVING NO. 4522
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Revised
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Lease No. EV 1-12950
I.C. No. 1-17-06045
Parcels 1-11882, 1-11883 & 1-11884
Fed. Aid N/A

King County Sundry Site Plans Woodinville Park and Ride Lot.

EVENT LEASE

The WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, hereinafter called "WSDOT," and serving in the capacity of Landlord pursuant to RCW 47.12.120 does hereby lease, demise and let unto The CITY OF WOODINVILLE, a municipal corporation in the State of Washington hereinafter called "TENANT," that certain property (the Leased Premises) located in King County, State of Washington, and described below and/or shown hachured on Exhibit "A" attached hereto and by this reference incorporated herein.

That portion of the south half of the north half of the southwest quarter of the northeast quarter of Section 10, Township 26 North, Range 5 East, W.M., lying west of the Woodinville-Duvall Highway: EXCEPT portion lying within 140th Ave. N.E. conveyed by deed recorded under Recording No. 2571408.

1. TERM. The term of this Lease shall commence on May 6, 2011 and on September 9, 2011 (Commencement Date) and each event shall be a one (1) day tenancy.

2. RENT.

A. TENANT hereby covenants and agrees to pay rent for the Leased Premises to WSDOT in advance on or before the 6th day (due date), of May, 2011 for the entire term of this Lease. Rent shall be paid at the initial rate, subject to adjustment as hereinafter provided, of Two Hundred Dollars and 00/100 (\$200.00) per event for a total payment of Four Hundred Dollars and 00/100 (\$400.00), beginning on the 6th day of May 2011.

B. All payments are to be made payable to Washington State Department of Transportation, Mail payments to:

DEPARTMENT OF TRANSPORTATION (Mailing Address)
Attn.: Property Management Program Manager
P. O. Box 47339
Olympia, WA 98504-7339

DEPARTMENT OF TRANSPORTATION (Physical Address)
Attn.: Property Management Program Manager
243 Israel Road S.E., Suite 101
Tumwater, WA 98501

3. CHARGE FOR LATE PAYMENT, NSF CHECKS.

A. If any payment of rent or if any other sum due to WSDOT is not received by WSDOT on or before the due date, a late charge of one percent (1%) of the total rent due and unpaid plus a \$25.00 administration fee shall be added to the amount due and the total sum shall become immediately due and payable to WSDOT. Each additional month that the rent due goes unpaid shall be subject to a late charge of one percent (1%) of the total rent due plus an administration fee of \$25.00. Also, there shall be a charge for any check returned uncollectable in accordance with WAC 468-20-900. The WSDOT and TENANT agree that such charges represent a fair and reasonable estimate of the costs incurred by the WSDOT by reason of late payments and uncollectable checks.

4. TERMINATION. This Lease may be terminated by either party upon not less than five days written notice to the other; Provided, in the event of an emergency as determined by WSDOT, WSDOT may terminate this Lease with less notice or immediately, as deemed necessary by WSDOT. In the event WSDOT terminates this Lease with less than five days notice, the TENANT shall be entitled to a refund of any rent prepaid.

5. UTILITIES/ASSESSEMENTS. The TENANT agrees that no utilities will be used on the premises for this event.

6. USE OF LEASED PREMISES. No use other than the TENANT's community recycling events are permitted without the prior written approval of WSDOT. TENANT's use of the Leased Premises for these events must follow the regulations listed on **Exhibit B** attached hereto and by this reference incorporated herein. WSDOT grants the TENANT permission to

collect and dispose of hazardous materials and substances for these two (2), one (1) day events providing they follow the appropriate environmental laws. In using the Leased Premises, the TENANT shall comply with all policies and regulations, including, but not limited to Chapter 47.42 RCW, et seq. and WAC 468-66 et seq., heretofore adopted or hereafter promulgated by WSDOT relative to the location, operation, and maintenance of improvements located on the Leased Premises. Furthermore, in using the Leased Premises, it is expressly agreed that TENANT shall (A) comply with all applicable federal, state and local laws, ordinances, and regulations, including environmental requirements that are in force or which may hereafter be in force, and (B) secure all necessary permits and licenses for the uses of the Leased Premises authorized in this Lease. Direct access to ramps or traveled lanes of limited access highways is not permitted. TENANT shall not commit or allow to be committed any waste upon the Leased Premises or any public or private nuisance.

7. IMPROVEMENTS. WSDOT shall not be required to make any improvements to or perform any maintenance or repairs upon any part of the Leased Premises. No improvements may be placed upon the Leased Premises by the TENANT without prior written approval of the WSDOT.

8. WSDOT'S RIGHT OF ENTRY AND INSPECTION. WSDOT, for itself, its agents and contractors, and for the Federal Highway Administration, reserves the right to enter upon the Leased Premises at any time without notice to the TENANT.

9. MAINTENANCE. The TENANT shall perform or cause to be performed at TENANT's expense all maintenance of the Leased Premises which will include, but not be limited to, control of noxious weeds litter, dust, and erosion, and must keep the Leased Premises in good condition, both as to safety and appearance, to the satisfaction of WSDOT. Tenant must keep dust settled, and must not kill the existing cover unless the intent is to establish new growth.

10. PERSONAL PROPERTY. WSDOT shall not be liable in any manner for, or on account of, any loss or damage sustained to any property of whatsoever kind stored, kept, or maintained on or about the Leased Premises, except for such claims or losses that may be caused by WSDOT or its authorized agents or employees. Upon termination of this Lease, WSDOT or its agent may remove all personal property of the TENANT remaining on the Leased Premises at the TENANT's expense and dispose of it in any manner WSDOT deems appropriate. TENANT agrees to reimburse WSDOT for the costs of such removal and disposal within thirty (30) days of the date of the WSDOT's invoice.

11. HOLD HARMLESS/INDEMNIFICATION.

A. TENANT, its successors or assigns, will protect, save and hold harmless WSDOT, its authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the TENANT, its

assigns, subtenants, agents, contractors, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Leased Premises. The TENANT further agrees to defend WSDOT, its agents or employees, in any litigation, including payment of any costs or attorney's fees, for any claims or actions commenced, arising out of, or in connection with acts or activities related to this Lease, whether those claims, actions, costs, damages, or expenses result from acts or activities occurring on or off the Leased Premises. This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of WSDOT, or its authorized agents or employees; provided, that if the claims or damages are caused by or result from the concurrent negligence of (a) WSDOT, its agents or employees, and (b) the TENANT, its assigns, subtenants, agents, contractors, licensees, invitees, or employees, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the TENANT or TENANT's assigns, subtenants, agents, contractors, licensees, invitees or employees.

B. The indemnification provisions contained in this section shall survive the termination or expiration of this Lease.

12. INSURANCE.

A. At its sole expense, the TENANT shall secure and maintain in effect a policy providing public liability insurance issued by an insurer licensed to conduct business in the State of Washington. The insurance policy shall provide liability coverage for any and all claims of bodily injury, property damage, and personal injury arising from the TENANT's use of the Leased Premises, which is the subject of this Lease. The insurance policy required by this section shall provide coverage as follows: if the Leased Premises are to be used for commercial purposes, no less than One Million and no/100 Dollars (\$1,000,000.00) bodily injury and property damage or combined single limit of liability per occurrence, with a general aggregate limit of no less than Two Million and no/100 Dollars (\$2,000,000.00) per policy period; and if the Leased Premises are not to be used for commercial purposes, no less than Five Hundred Thousand and no/100 Dollars (\$500,000.00) bodily injury and property damage or combined single limit of liability per occurrence, with a general aggregate limit of no less than One Million and no/100 Dollars (\$1,000,000.00). Such aggregate limits shall apply for this Leased Premises location, and coverage under said policy shall be triggered on an "occurrence basis", not a "claims made" basis.

B. If the Leased Premises are to be used for commercial purposes, the coverage required by this section shall be at least as broad as that provided by the most current Commercial General Liability Policy form ISO (Insurance Services Office, Inc.) policy form CG 00 01 12 04 or its equivalent without modification, and shall be endorsed to include pollution

liability coverage under ISO form CG 00 39 12 04, or its equivalent without modification, in amounts previously stated. The use of an equivalent form shall require prior written approval by the State. The TENANT shall provide additional endorsements and/or increase the policy limits at its sole cost, when and if State deems it necessary due to the TENANT's use of the Leased Premises, and/or increase in policy limits, within Ten (10) days of WSDOT's written request to do so.

C. WSDOT shall be named as an additional insured by endorsement of the liability policy required by this section utilizing ISO Form 2026 (Additional Insured – Designated Person or Organization) or its equivalent without modification. The endorsement shall require the insurer to provide WSDOT with not less than thirty (30) days prior written notice before any cancellation of the coverage required by this section.

D. No changes whatsoever shall be initiated as to the coverage without prior written approval by WSDOT and written authorization by WSDOT to make any requested changes.

E. Unless approved by WSDOT in advance in writing, the liability coverage required by this section shall not be subject to any deductible or self-insured retentions of liability greater than: Five Thousand and no/100 Dollars (\$5,000.00) per occurrence if the Leased Premises are to be used for commercial purposes, or: One Thousand and no/100 Dollars (\$1,000.00) per occurrence if the Leased Premises are not used for commercial purposes. The payment of any such deductible or self-insured retention of liability amounts remains the sole responsibility of the TENANT.

F. The TENANT assumes all obligations for premium payment, and in the event of nonpayment, is obligated to reimburse WSDOT the cost of maintaining the insurance coverage and any legal fees incurred in enforcing such reimbursement in the event the TENANT fails to pay the policy premiums.

G. Coverage, if obtained by the TENANT in compliance with this section, shall not be deemed as having relieved the TENANT of any liability in excess of such coverage.

H. The TENANT shall provide WSDOT with a certificate of insurance reflecting the insurance coverage required by this section within Ten (10) calendar days of the execution of this Lease. Such certificates shall also be provided upon renewal of said policies and changes in carriers.

13. ENVIRONMENTAL REQUIREMENTS.

A. TENANT represents, warrants and agrees that it will conduct its activities on and off the Leased Premises in compliance with all applicable environmental laws. As used

in this Lease, the term "Environmental Laws" means all federal, state and local environmental laws, rules, regulations, ordinances, judicial or administrative decrees, orders, decisions, authorizations or permits, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq., the Clean Air Act, 42 U.S.C. § 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. § 11001, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., the Oil Pollution Control Act, 33 U.S.C. § 2701, et seq., and Washington or any other comparable local, state, or federal statute or ordinance pertaining to the environment or natural resources and all regulations pertaining thereto, including all amendments and/or revisions to said laws and regulations.

B. Toxic or hazardous substances are not allowed on the Leased Premises without the express written permission of WSDOT and under such terms and conditions as may be specified by WSDOT. For the purposes of this Lease, "Hazardous Substances," shall include all those substances identified as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., and the Washington Model Toxics Control Act, RCW 70.105D et seq., including all amendments and/or revisions to said laws and regulations, and shall include gasoline and other petroleum products. In the event such permission is granted, the use and disposal of such materials must be done in a legal manner by the TENANT.

C. TENANT agrees to cooperate in any environmental investigations conducted by WSDOT staff or independent third parties where there is evidence of contamination on the Leased Premises, or where WSDOT is directed to conduct such audit by an agency or agencies having jurisdiction. TENANT will reimburse WSDOT for the cost of such investigations, where the need for said investigation is determined to be caused by the TENANT's operations. TENANT will provide WSDOT with notice of any inspections of the Leased Premises, notices of violations, and orders to clean up contamination. TENANT will permit WSDOT to participate in all settlement or abatement discussions. In the event that the TENANT fails to take remedial measures as duly directed by a state, federal, or local regulatory agency within Ninety (90) days of such notice, WSDOT may elect to perform such work, and the TENANT covenants and agrees to reimburse WSDOT for all direct and indirect costs associated with the WSDOT's work where those costs are determined to have resulted from the TENANT's use of the Leased Premises. TENANT further agrees that the use of the Leased Premises shall be such that no hazardous or objectionable smoke, fumes, vapor, odors, or discharge of any kind shall rise above the grade of the right of way.

D. For the purposes of this Lease, "Costs" shall include, but not be limited to, all response costs, disposal fees, investigatory costs, monitoring costs, civil or criminal penalties, and attorney fees and other litigation costs incurred in complying with state or federal

environmental laws, which shall include, but not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et. seq.; the Clean Water Act, 33 U.S.C. § 1251, et. seq.; the Clean Air Act, 42 U.S.C. § 7401, et. seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq.; and the Washington Model Toxics Control Act, Ch. 70.105D RCW, et. seq., including all amendments and/or revisions to said laws and regulations.

E. TENANT agrees to defend, indemnify and hold harmless WSDOT from and against any and all claims, causes of action, demands and liability including, but not limited to, any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments and attorneys' fees associated with the existence of, and/or removal or remediation of any Hazardous Substances that have been released, or otherwise come to be located on the Leased Premises, including those that may have migrated from the Leased Premises through water or soil to other properties, including without limitation, the adjacent WSDOT property, and which are caused by or result from TENANT's activities on the Leased Premises. TENANT further agrees to retain, indemnify, defend, and hold WSDOT harmless from any and all liability arising from the offsite disposal, handling, treatment, storage or transportation of any Hazardous Substances removed from the Leased Premises.

F. The provisions of this paragraph shall survive the termination of this Lease.

14. NONDISCRIMINATION. The TENANT, for itself, its successors and assigns as part of the consideration hereof, does hereby covenant and agree to comply with all civil rights and antidiscrimination requirements, including, but not limited to Chapter 49.60 RCW.

15. ASSIGNMENT. Neither this Lease nor any rights created by it may be assigned, sublet, or transferred.

16. RESTORATION OF SITE. Prior to termination of this Lease, TENANT agrees, if so directed by WSDOT, to restore the Leased Premises to its condition prior to TENANT's occupancy, reasonable wear and tear excepted. This work is to be done at the TENANT's expense to the satisfaction of WSDOT.

17. VACATION OF LEASED PREMISES. Upon termination of this Lease, the TENANT shall cease its operations on and/or use of the Leased Premises. In the event the TENANT fails to vacate the Leased Premises on the date of termination, the TENANT shall be liable for any and all costs to WSDOT arising from such failure.

18. MODIFICATIONS. This Lease contains all the agreements and conditions made between the parties hereto pertaining to the rental of the Leased Premises herein described and may not be modified orally or in any other manner other than by a written agreement signed

by all parties hereto. The receipt of rent by WSDOT, with knowledge of any breach of this Lease by the TENANT, and/or with knowledge of any default on the part of the TENANT, shall not be deemed to be a waiver of any provision of this Lease. Failure on the part of WSDOT to enforce any covenant or provision herein contained, shall not discharge or invalidate such covenant or provision or affect the right of WSDOT to enforce the same in the event of any subsequent breach or default.

19. TOTALITY OF AGREEMENT. It is understood that no guarantees, representations, promises, or statements expressed or implied have been made by WSDOT except to the extent that the same are expressed in this Lease.

20. BINDING CONTRACT. This Lease shall not become binding upon WSDOT unless and until executed by the Secretary of Transportation or his duly authorized representative.

21. INTERPRETATION. This Lease shall be governed by and interpreted in accordance with the laws of the State of Washington. The titles to paragraphs or sections of this Lease are for convenience only, and shall have no effect on the construction or interpretation of any part hereof.

22. SEVERABILITY. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Lease shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. ATTORNEY FEES. In the event of controversy, claim, or dispute arising out of this Lease, each party shall be solely responsible for the payment of its own legal expenses, including but not limited to, attorney's fees and costs.

24. VENUE. Tenant agrees that the venue of any action or suit concerning this Lease shall be in the Thurston County Superior Court, and all actions or suits thereon shall be brought therein, unless applicable law provides otherwise.

25. NOTICES. Wherever in this Lease written notices are to be given or made, they will be served, personally delivered or sent by certified or overnight mail addressed to the parties at the address listed below unless a different address has been designated in writing and delivered to the other party. The TENANT agrees to accept service of process at said address; provided, that such address is located in the State of Washington. Otherwise, the TENANT designates the Secretary of the State of Washington as an agent for the purpose of service of process. Such service shall be deemed personal services.

STATE: DEPARTMENT OF TRANSPORTATION (Mailing Address)

Attn.: Property Management Program Manager
P. O. Box 47338
Olympia, WA 98504-7338

DEPARTMENT OF TRANSPORTATION (Physical Address)

Attn.: Property Management Program Manager
243 Israel Road S.E., Suite 101
Tumwater, WA 98501

TENANT: THE CITY OF WOODINVILLE

17301 4703 133rd Avenue N.E.
Woodinville, WA 98077

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TENANT: THE CITY OF WOODINVILLE

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION

By: Richard A. Juckey

By: Cynthia Tremblay

Title: CITY MANAGER

Cynthia Tremblay, Property
Management Program Manager

Dated: April 6, 2011

Date: 4/14/2011

Any material modification requires
additional approval of the Office of the
Attorney General.

NO MATERIAL MODIFICATION TO THE
ELECTRONIC FORM PREAPPROVED BY AAG

By: _____

Assistant Attorney General Date

Exhibit B

Lease No. EV 1-12950

IC 1-17-06045

Metro's Requirements for Recycling Events at P&R lots:

- The recycling activities and traffic cannot interfere with transit operations or transit customer use of the P&R lots. No activities or vehicle access will be allowed in the bus loop, bus zones, bus layovers or passenger shelter areas.
- All activities and staging should take place within the lot. Applicant shall provide King County Metro Transit a map of the proposed location for the requested activities absolutely no less than 5 business days in advance, which must be approved by transit staff.
- Applicant shall prepare a traffic control plan for public vehicles accessing and exiting the lot that ensures there will be no interference with transit operations or transit customer use at the site. A copy of the traffic control plan shall be provided to King County Metro Transit staff for approval absolutely no less than 5 business days in advance.
- No vehicles over 10,000 GVW are allowed in the P&R lot.
- The containers and other equipment/materials must be dropped off after 7:00 PM on the identified Fridays (Thursdays are only ok for Woodinville P&R – and only when approved by Transit) and removed (and the lot cleaned up) prior to 5:00 AM on Mondays. Nothing (no containers, equipment, etc.) shall remain in the lots after or between events.
- All containers used for collection shall be placed on plywood to protect the pavement. All recycled/dropped off materials shall be placed on plywood or directly inside the containers.
- Applicant shall cover the ground/pavement with tarps or other covering to protect the surface from oils, petrochemicals, pollutants, and hazardous waste materials.
- Applicant shall provide appropriate containers for the collection of materials for recycling purposes.
- Applicant shall be responsible for covering and containing all materials and donated items on-site.
- Rubber cleats shall be installed on all steel tracked equipment used in the P&R lot to protect the pavement.
- Applicant shall be responsible for providing all necessary safety measures.
- No materials, equipment, garbage, etc., shall be placed or allowed in the landscaping, drainage field or detention pond.
- Applicant will have to provide their own utilities, port-o-potty, etc., as they are not available for use. Applicant must coordinate use of port-o-potty with transit staff.
- Applicant shall provide its own trash receptacles and shall be responsible for the removal and disposal off-site of all trash associated with its use.
- Applicant shall be responsible for returning the site to the same or better condition than prior to the event, including the removal and/or disposal off-site of all equipment, materials, donations, trash, and any items left on-site associated with the use, immediately upon the close of each event. No equipment or other articles shall be left on-site.
- Applicant shall be responsible for the repairs and/or replacement of any damage to the site, including to the landscaping, drainage field, detention pond, pavement, and any passenger amenities in the P&R lot.
- Transit will be checking the sites after each event and will notify WSDOT of any damages that need repairs/replacement; any materials, equipment, donations, trash, etc., left on the lot that need removal and/or any clean-up that needs to be done.
- Applicant must agree to indemnification language (we require indemnification of King County to the fullest extent permitted by law). We can provide our language if you would like.
- Applicant must provide insurance coverage (adding King County and WSDOT as additional insured).