

MEMORANDUM OF AGREEMENT: ESTABLISHING THE ENVIROSTARS REGIONAL GREEN BUSINESS PROGRAM

1.0 INTRODUCTION

This Memorandum of Agreement ("MOA") is made by and among various governmental entities and utilities (hereby referred to as "Members") in the King/Snohomish County Region. This MOA addresses the basic relationship, roles and responsibilities in developing and implementing the EnviroStars Regional Green Business Program. Members have varying degrees of involvement that include participating at an Advisory, Steering or Executive level and/or contributing staff time to the program.

1.1 Members

The following entities are Members under this MOA:

- City of Bellevue
- City of Kirkland, Public Works Department
- King County
- Local Hazardous Waste Management Program in King County ("LHWMP")
- Public Utility District No. 1 of Snohomish County (Washington ("Snohomish PUD"))
- Puget Sound Energy ("PSE")*
- City of Seattle, City Light Department ("SCL")
- City of Seattle, Office of Economic Development ("OED")
- City of Seattle, Office of Sustainability and the Environment ("OSE")
- City of Seattle, Seattle Public Utilities Department ("SPU")
- Snohomish County

*PSE as a private utility is included as a Member, with all rights and responsibilities under this MOA of a Member, except that it shall not have the right to vote on matters related to budgeting and expenditures.

1.2 Term of Agreement

This MOA is effective upon the last signature of the eleven (11) Members identified above, and will remain in effect unless and until terminated in accordance with the provisions of Section 5.3 below.

2.0 BACKGROUND

Dozens of environmental sustainability services are currently offered by municipalities and private organizations to businesses in the Puget Sound Region. These programs are aimed at reducing the environmental impacts of businesses and feature a wide range of topics, including but not limited to, waste reduction (including hazardous waste and toxic chemical reduction), energy and water conservation, stormwater pollution prevention, and greenhouse gas reduction. In Seattle alone, six different agencies offer more than 30 environmental services and rebate programs to businesses with very little coordinated outreach. Businesses

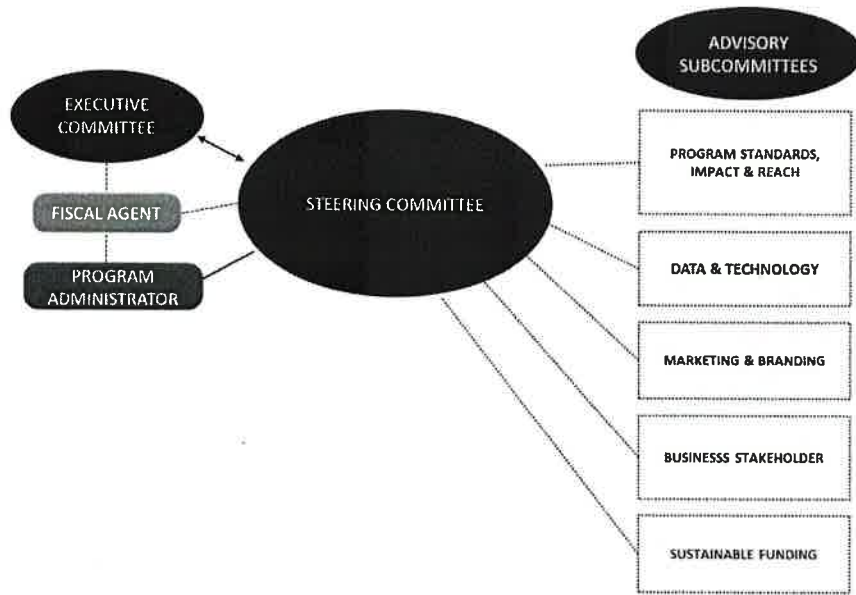
value these programs and services, but often do not know which agency to contact to get the services they need.

The City of Seattle’s OED convened a series of meetings with a group of regional partners — City of Bellevue, City of Kirkland, OED, SPU, SCL, OSE, LHWMP/EnviroStars, King County , Puget Sound Energy, Snohomish PUD, and Snohomish County, in order to take a collaborative approach in exploring ways to make it easier for businesses to access environmental sustainability programs.

3.0 ROLES AND RESPONSIBILITIES OF THE PARTICIPATORY PARTNERS

The EnviroStars Regional Green Business Program will be governed by an Executive Committee and a Steering Committee. Members shall appoint individuals to represent that Member for either or both of these Committees. A third party contractor will provide administrative oversight, marketing, and website management and support of the governing committees (“Program Administrator”). For the first three years of this MOA, Seattle’s OED will be the fiscal agent (“Fiscal Agent”). Figure 1 shows the governance model for the EnviroStars Regional Green Business Program. Note that the Advisory Subcommittees are listed for illustration only; particular Advisory Subcommittees will be created, and membership on the Subcommittees will be appointed, by the Steering Committee.

Figure 1: EnviroStars Regional Green Business Program Governance Model



The Executive and Steering Committees will attempt to make decisions by consensus so as to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any Member of a Committee may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. This shall consist of a 2/3 supermajority of votes for weighted votes cast as provided for in Sections 3.1 and 3.2, and a simple majority of votes based on the number of Members voting. Registering a vote at a meeting can be done in person, by phoning in to the meeting, or by sending a delegate/proxy to vote. A quorum must be present in order for a

vote to take place or for a decision by consensus to be made. A quorum is defined as the minimum number of Members necessary such that two-thirds of the total Member financial contribution is represented and a simple majority of the Members is represented.

3.1 *Executive Committee*

The Executive Committee is a small group that is a subset of the Members which focuses on strategic and policy issues. The Executive Committee will adopt rules and procedures for its operations, and those of the other Committees, or may delegate this authority to the other Committees for their own operation. Such rules and procedures must be consistent with the terms of this MOA. Details regarding the nature, scope and purpose of the Executive Committee are as follows:

- **Membership:** The Executive Committee will be comprised of a subset of the Members. Membership on the Executive Committee will be dependent upon the level of financial contribution, so that Members contributing higher levels of funding have higher levels of input on key management issues. To qualify for membership on the Executive Committee, a Member must commit to contributing an average of \$15,000 a year for the first three years, and thereafter at least \$15,000 for each year to be eligible to sit on the Executive Committee. Members contributing less than this will be aggregated into a “smaller contribution” caucus that will have one representative on the Executive Committee. The Executive Committee will have a maximum of eight Members, including the caucus. If there are more eligible Members than places on the Executive Committee, the places will be filled based on the seven highest financial contributors and the remaining Members will become part of the caucus, which will have one place on the Executive Committee.
- **Voting:** The Executive Committee will attempt to make decisions by consensus to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any member of the Executive Committee may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. The first majority must be a supermajority (2/3) vote, which will be weighted proportionally to financial contributions, including the “smaller contribution” caucus (i.e., the weight of each vote will be based on the percentage of the contribution to the Member-funded budget). Table 1 shows the weighting for the initial eleven Members, based on the contributions detailed in Table 3. For the “smaller contribution” caucus, while the caucus is represented by one Member, the actual votes of the caucus for supermajority weighted votes purposes will be counted at the individual Member level. The second majority required for approval of a matter is a simple majority of the Members voting at the meeting, subject to quorum requirement.

Table 1: Voting Details

Member (ranked by contribution)		3 Year Average Contribution	Relationship to Executive Committee	% of Member Funding	Weight of Vote
1	Seattle - SPU	\$100,000	Individual Member	46%	0.46
2	Seattle - SCL	\$25,000	Individual Member	12%	0.12
3	LHWMP	\$20,000	Individual Member	9%	0.09
4	King County	\$20,000	Individual Member	9%	0.09
5	Snohomish PUD	\$15,000	Individual Member	7%	0.07
6	PSE	\$15,000	Individual Member	7%	0.07
7	City of Bellevue	\$5,000	Smaller Contribution Caucus	2%	0.02
8	City of Kirkland	\$5,000		2%	0.02
9	Snohomish County	\$5,000		2%	0.02
10	Seattle - OED	\$5,000		2%	0.02
11	Seattle - OSE	\$333		0%	0.002
Total		\$215,333		100%	1.00

- **Decision Types:** The Executive Committee is responsible for decisions that are strategic and policy in nature. These decisions concern issues that are broad, system-wide and impact long-term strategy, budget, overall program structure, and future direction and growth.
- **Relationship to Steering Committee:** The Executive Committee gives direction to the Steering Committee. The Executive Committee will also rely heavily on information and research provided by the Steering Committee, (which in turn works with various Advisory Subcommittees and the Program Administrator).
- **Meeting Frequency:** The Executive Committee is expected to meet quarterly, or as needed.

3.2 Steering Committee

The Steering Committee consists of the eleven initial Members and any Members subsequently added, as provided for in Section 5.1. The Steering Committee makes tactical and administrative decisions and carries out, or directs, most of the workload. Details regarding the nature, scope and purpose of the Steering Committee are as follows:

- **Membership:** The Steering Committee will be comprised of at least one representative from each Member. Multiple representatives from each Member are allowed; however, only one representative from each Member will have the right to vote on behalf of that Member.
- **Voting:** The Steering Committee will attempt to make decisions by consensus to come to agreement and include the viewpoints and needs of all Members. However, in the instances where consensus cannot be reached, any Member may invoke the right to call a vote, which will require the Members to take action on a dual-majority basis for approval. The first majority must be a supermajority (2/3) vote, which will be weighted proportionally to financial contributions (i.e., the weight of each vote will be based on the percentage of the contribution to the Member-funded budget). The second majority required for approval of a matter is a simple majority of the Members voting at the meeting, subject to quorum requirements.
- **Decision Types:** The Steering Committee is responsible for decisions that are tactical or administrative in nature.
- **Relationship to Executive Committee:** The Steering Committee receives direction from the Executive Committee. The Steering Committee will also research issues of a strategic policy nature at the request of the Executive Committee.
- **Relationship to Program Administrator:** The Steering Committee will provide direct oversight of the Program Administrator.
- **Subcommittees:** The Steering Committee will create and manage Advisory Subcommittees tasked with managing or researching specific issues, as needed. Advisory Subcommittees can be long-term groups intended for ongoing work (e.g., marketing) or short-term groups created to research a specific topic. The particular subcommittees to be formed will be determined by the Steering Committee within the first three months after the MOA is fully executed. Membership on the subcommittees will come from the main Steering Committee, but may also include Member representatives that are not on the Steering Committee.
- **Chair:** The Steering Committee will be chaired by each Member on a one-year, rotating basis. The initial chair will be elected within the first three months after the MOA is fully executed. The rotation will be determined within the first six months after the MOA is fully executed, but may be revised if a new Member(s) joins or a Member cannot fill the chair role during its required year.
- **Meeting Frequency:** The Steering Committee is expected to meet monthly, or as needed.

3.3 Program Administrator

A Program Administrator will be hired to perform three functions: 1) program management and administration, 2) web platform development and support, and 3) marketing, engagement, and recognition. The Program Administrator will receive strategic direction

from the Executive Committee and tactical direction from the Steering Committee. The Program Administrator is not authorized to accept or reject new membership under this MOA, without unanimous approval of the then existing Steering Members. The Program Administrator is not authorized to distribute funds from any individual member program. The Program Administrator will be paid by the Fiscal Agent (Section 3.4) with pooled funds (Section 4.0). Compensation for the Program Administrator will be determined by the Executive Committee

The Program Administrator will be hired through a solicitation process, which will be conducted by City of Seattle’s OED, and which will follow City of Seattle’s contracting procedures, including Women and Minority Owned Businesses (WMBE) participation. The associated scope of work will be agreed to by the Executive Committee prior to contract signage.

The Program Administrator is authorized to sign the addendum referred to in Section 5.1 below upon authorization being granted by the Steering Committee, in accordance with the terms of Section 5.1.

3.4 Fiscal Agent

The City of Seattle’s Office of Economic Development (OED) is the Fiscal Agent for the initial three (3) years of the MOA. Once this period is over, the next Fiscal Agent will be nominated and voted on by the Steering Committee with final approval of the Executive Committee. OED shall annually invoice and collect payments for the Member funds obligations set forth in Table 3 over the three (3) year period. The Fiscal Agent will invoice Members at the beginning of each 12 month period on their agreed amounts, 30 days prior to their payment due date or as requested by the Member and agreed to by the Executive Committee. Table 2 summarizes billing details for all Members. The Fiscal Agent is authorized to pay the Program Administrator as provided for in the Program Administrator contract. The Fiscal Agent is also authorized to accept funds from Members, grants, and gifts, all for purposes consistent with this MOA.

Table 2: Billing Details

<i>Member</i>	LHWMP, Snohomish PUD, City of Kirkland, City of Bellevue King County, PSE, Snohomish County,	SPU, OSE, SCL, OED
<i>Payment Due</i>	30 days after receiving invoice	30 days after receiving invoice
<i>Payment Type</i>	Invoice/check	Inter-fund payment/journal via Summit
<i>Fund #</i>	N/A	00100
<i>Org</i>	N/A	X6D21
<i>Project</i>	N/A	XDELRGBI
<i>Activity#</i>	N/A	RGBI
<i>Address:</i>	PO Box 94708, Seattle, WA 98124-4708	Mail Stop SMT-57-52
<i>Attention:</i>	Senior Finance Analyst, OED	Senior Finance Analyst, OED

4.0 FUNDING

This MOA establishes an EnviroStars Regional Green Business Pooled Fund account (hereinafter referred to as “Pooled Fund”) to which funds will be deposited for the purpose of providing funding for uses identified in this MOA to include:

- Hiring of a Program Administrator to assist with program planning, implementation, and management;
- The procurement and customization of a website and customer relationship management (CRM) platform; and
- Joint marketing, advertising, and outreach.

Total annual contributions from the Members as well as grants to the Pooled Fund for the first three (3) years of this MOA are specified in Table 3. The funding requirements for Member fees for the first three (3) years reflect the benefits each Member anticipates achieving from the program. Those benefits are based on: 1) the relative size of the targeted business community, 2) how each Member plans to utilize the program, 3) and how quickly they can implement those plans. For example, some Members are poised to immediately and fully utilize the program (e.g., SPU). Members that are participating in a non-utility capacity (i.e., with funds from general fund budgets) may provide additional staff time to the program which in turn can result in a lower contribution amount.

The funding requirements for Member support in subsequent years may be modified based on some Members’ ability to better utilize the program at that point. Changes to the Member funding requirements will be developed by the Steering Committee and will require final unanimous approval by the Executive Committee. For future years, Table 3 below will be replaced with a revised table reflecting funding obligations for each Member, and such revised table or tables will be attached to this MOA as an addendum.

Table 3: Pledged Pooled Support Funds for First Three Years

Funding Source	Year 1		Year 2		Year 3	
	Dollars	Labor FTE	Dollars	Labor FTE	Dollars	Labor FTE
Members						
City of Bellevue	\$5,000	0.10	\$5,000	0.10	\$5,000	0.10
City of Kirkland, Public Works Department	\$5,000	0.25	\$5,000	0.25	\$5,000	0.25
King County	\$20,000	0.10	\$20,000	0.10	\$20,000	0.10
Local Hazardous Waste Management Program in King County	\$10,000	0.50	\$25,000	0.50	\$25,000	0.50
Public Utility District No. 1 of Snohomish County	\$15,000	tbd	\$15,000	tbd	\$15,000	tbd
Puget Sound Energy	\$15,000	0.10	\$15,000	0.10	\$15,000	0.10
City of Seattle, City Light Department	\$25,000	tbd	\$25,000	tbd	\$25,000	tbd
City of Seattle, Office of Economic Development	\$5,000	0.25	\$5,000	0.50	\$5,000	0.50
City of Seattle, Office of Sustainability and the Environment	\$1,000	0.10	\$0	0.15	\$0	0.15
City of Seattle, Seattle Public Utilities Department	\$100,000	0.50	\$100,000	0.50	\$100,000	0.50
Snohomish County	\$5,000	tbd	\$5,000	tbd	\$5,000	tbd
Subtotal – Members	\$206,000	1.90	\$220,000	2.20	\$220,000	2.20
Grants						
Washington State Department of Ecology ¹	\$85,000	n/a	\$0	n/a	\$0	n/a
US EPA National Environmental Information Exchange Network ²	\$100,000	n/a	\$58,000	n/a	\$0	n/a
Subtotal – Grants	\$185,000	n/a	\$58,000	n/a	\$0	n/a
Total	\$391,000		\$278,000		\$220,000	

¹ This grant has been awarded for Year 1. Ecology is also interested in assisting with funding for Years 2 and 3, although no firm commitment beyond Year 1 has been made.

² These dollars represent the portion of a grant awarded to the Western Sustainability and Pollution Prevention Network, which will be used to upgrade an existing web platform used by the California Green Business Network for use by the EnviroStars Regional Green Business Program.

Any surplus funds at the end of a 12-month period will be identified by the Fiscal Agent. The Steering Committee will present recommendations to the Executive Committee as to how these excess funds should be utilized. The Executive Committee shall make the final decision of use of excess funds.

The acquisition of real and personal property is not anticipated under this MOA. However, in the event that that occurs, it will be acquired by the Program Administrator or Steering

Committee under the direction of the Executive Committee and will be held by whatever Member or entity that the Executive Committee so authorizes.

5.0 AGREEMENTS

In order to foster the successful implementation of the terms of this MOA, Members agree to the following terms and conditions:

- 1) Each Member agrees to undertake activities under the terms of this MOA and to further the goals and purposes of this MOA, subject to the terms and conditions provided for herein. The Members agree to collaboratively work together and to resolve any disputes that may arise through good faith negotiations.
- 2) Members will sign and operate under a separate licensing agreement with King County. This Servicemark Licensing Agreement grants and conveys to each Member and the Program Administrator, collectively and individually a non-transferable license to use the EnviroStars brand and logo for the period of this MOA. A form of the Servicemark Licensing Agreement is attached to this MOA as Attachment B. The current EnviroStars brand and logo is a trademark registered with the State of Washington Secretary of State for a five year period, which ends in October 2017. King County intends to seek renewal of this trademark in 2017, so that its use will continue through the initial three year duration of this MOA and thereafter. In the unlikely event that the trademark is not renewed, the Members agree to collaboratively work with King County so that the purposes and goals of this MOA may continue.
- 3) Nothing in this MOA shall be construed to authorize or permit any violation of any Federal, State or local law, including but not limited to, any environmental law.
- 4) All Members acknowledge that participation in this MOA does not constitute an endorsement, express or implied, of (a) any policy advocated by any of the individual Members, or (b) any good or service offered by any individual Member..

5.1 Addition of a Member to this MOA

At any time after the effective date of this MOA, additional Members may join, subject to the terms of this section 5.1. The funding formula for additional Members will be a base fee of \$5,000 plus an additional component that reflects their anticipated benefits. Those benefits will be based on: 1) the relative size of their targeted business community, 2) how they plan to utilize the program, and 3) how quickly they can implement those plans. For an entity to become a Member, it must be a government, a governmental agency, or a utility; must have unanimous approval of the then existing Members of the Steering Committee; and be subject to the terms and conditions of this MOA through signing an addendum to this MOA, which shall occur no later than sixty (60) days prior to the end of any given one year period. The

addition of a new Member through the execution of an addendum to this MOA shall not be deemed an amendment to this MOA.

5.2 Withdrawal of a Member from this MOA

Each Member, for its convenience and without cause or for any reason, may withdraw from participation in the MOA by providing written notice. Such Members may, upon written notice being provided to the Executive Committee a minimum of sixty (60) days prior to the due date for its payment of the annual invoice, withdraw from being a party to this MOA. If the Member withdraws from its participation under this MOA, pursuant to this Section, it shall be responsible for making payment in accordance with the terms of the MOA for work performed and accepted prior to the effective date of withdrawal.

In the event of withdrawal by a Member, this MOA shall terminate as to that Member but shall continue in effect with respect to the remaining Members. However, the withdrawal from participation under this MOA by a Member shall not affect any of the other Members' rights or obligations, or any rights or obligations of the withdrawing Member, that are expressly intended to survive termination. In the event of withdrawal of a member, the amount of weighted vote assigned to the remaining Members shall be recalculated.

In the event that a Member has its License to use the ServiceMark terminated under the terms of the ServiceMark Licensing Agreement (Attachment B), that Member shall no longer have the right under the terms of this MOA to use the ServiceMark for any purpose from the date of such termination and afterward, and the other Members may terminate the membership of such Member by the unanimous vote of the other Members. The termination of the membership of such Member shall be treated as a withdrawal by the Member, as provided for above.

5.3 Termination of this MOA

All Members must agree to terminate this MOA in order for such termination to be effective. The effective date of the termination will be determined by the Executive Committee, but must be no less than ninety (90) days after the date of the Executive Committee meeting during which the termination is agreed to. After the decision to terminate the MOA is made, the hired Program Administrator will be directed to close out work under the terms of this MOA. Each Member will receive its pro-rata share of remaining funds to the extent that those funds have not been paid to close out the work under this MOA.

To the extent that obligations for funding under this MOA require future appropriations beyond current appropriation authority, each of the Members' obligations are contingent upon the appropriation of sufficient funds by that Member's legislative authority, or other authorizing authority, for the specific purpose, to meet the financial obligations described herein in accordance with applicable law. If no such appropriation is made for such Member, this MOA will terminate as to that Member only, at the close of the appropriation year for which the last appropriation that funds the obligations of that Member was made.

5.4 Dispute Resolution Process

The Members, through their designated representatives to the Steering Committee per Section 3.2 of the MOA, shall use their best efforts to resolve any disputes pertaining to this MOA that may arise between the Members. If these designated representatives are unable to resolve a dispute, the matter shall be reviewed by the Executive Committee, which shall review and make their best attempt to resolve the dispute. The Members agree to exhaust each of these procedural steps before seeking to resolve the dispute through litigation. The venue for any such litigation shall be should be reflected by the parties involved; otherwise it will be King County Superior Court.

5.5 Severability

If any of the provisions contained in this MOA are held illegal, invalid, or unenforceable, the remaining provisions shall continue in full force and effect. If any provision of this MOA shall be held invalid, such invalidity shall not affect the other provisions of this MOA which shall remain in effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purposes of this MOA. To this end, the provisions of this MOA are declared to be severable. Should the invalidated provision be necessary to accomplish the purpose of the MOA, the Members agree to negotiate a provision which will allow such purpose to be accomplished. If agreement cannot be reached on a replacement provision, the MOA will be deemed terminated as of the date required by the invalidation.

5.6 Hold Harmless and Indemnification

To the extent permitted by state law, including R.C.W. 35.32A.090, and for the limited purposes set forth in this MOA, each Member shall protect, defend, hold harmless and indemnify the other Members, their officers, elected officials, agents and employees, while acting within the scope of their duties as such, from and against any and all claims (including demands, suits, penalties, liabilities, damages, costs, expenses, or losses of any kind or nature whatsoever) arising out of or in any way resulting from such Member's own negligent acts or omissions related to such Member's participation and obligations under this MOA. Each Member agrees that its obligations under this subsection extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, each Member, by mutual negotiation, hereby waives, with respect to the other Members only, any immunity that would otherwise be available against such claims under the industrial insurance act provision of Title 51 RCW. The provisions of this subsection shall survive and continue to be applicable to any Member exercising the right of termination pursuant to Section 5.3.

5.7 No Preclusion of Activities or Projects

Nothing herein shall preclude any Member from choosing or agreeing to fund or implement any work activities or projects associated with any of the purposes hereunder by separate agreement or action, provided that any such decision or agreement shall not impose any funding, participation or other obligation of any kind on the other Members.

5.8 Entirety of Complete Agreement

This MOA supersedes all prior negotiations, representations and agreements between the Members to the subject matter hereof and constitutes the entire agreement between the Members. This MOA may be amended only by written agreement of all the Members.

5.9 Counterparts

This MOA may be executed by facsimile or electronic mail in any number of current parts and signature pages hereof with the same effect as if all Members had all signed the same document. All executed current parts shall be construed together, and shall, together with the text of this MOA, constitute one and the same instrument.

5.10 No Third Party Beneficiary

This MOA and any activities authorized hereunder shall not be construed as granting any rights or privileges to any third person or entity.

6.0 INSURANCE

Each Member shall maintain in full force and effect throughout the term of this MOA, a minimum of One Million Dollars (\$1,000,000) liability insurance for property damage and bodily injury. In satisfying the insurance requirements set forth in this section, the Member may self-insure against such risks in such amounts as are consistent with good practice or shall obtain a coverage agreement through a Risk Pool authorized by state statute, which shall provide liability coverage to the Member for the liabilities contractually assumed by the Member in this MOA. At the time of execution of this MOA, and prior to commencement of performance of any work, each member shall furnish any Member, upon request, with a Certificate of Insurance or its equivalent as evidence that policies providing insurance (or self-insurance) with such provisions, coverage's and limits are in full force and effect.

The Steering Committee or designee shall insure that the Program Administrator and all others performing any work under this agreement shall obtain insurance appropriate to the services being provided and in amounts sufficient to cover the risks posed by such work.


7.0 MAINTENANCE OF RECORDS

The Fiscal Agent shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel from any Member, other personnel duly authorized by any Member, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this MOA will be retained for six (6) years after expiration of the MOA and two (2) additional years in the event any Member receives a public records request for said records. The Office of the State Auditor, federal auditors, and any persons duly authorized by the Members shall have full access and the right to examine any of these materials during this period.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Records and other documents, in any medium, furnished by one Member to another Member, will remain the property of the furnishing Member, unless otherwise agreed. The receiving Member will not disclose or make available any confidential information to any third parties without first giving notice to the furnishing Member and giving it a reasonable opportunity to respond. Each Member will utilize reasonable security procedures and protections to assure that records and documents provided by the other Member are not erroneously disclosed to third parties. However, the Members, except for Member PSE, acknowledge that they are subject to chapter 42.56 RCW, the Public Records Act and nothing in this MOA shall be interpreted as requiring a Member to take actions or fail to take actions in violation of any provisions of this Act.

The Members hereby agree to the foregoing MOA, as represented by the signatories listed on the following pages. This Memorandum of Agreement may be executed in counterparts.

For the City of Bellevue: Mary Kate Berens, Deputy City Manager for City of Bellevue	Signature: 
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Approved as to form:

By: 
Deputy Assistant City Attorney

Date: 10/26/15

For the City of Kirkland, Public Works Department:	Signature:
Kathy Brown, Director of Public Works	

For the Local Hazardous Waste Management Program in King County:	Signature:
Lynda Ransley, Director of LHWMP	

For King County:	Signature:
Christie True, Director of Department of Natural Resources and Parks	
Harold Taniguchi, Director of Department of Transportation	

For the Public Utility District No. 1 of Snohomish County:	Signature:
Jim West Assistant General Manager Customer and Energy Services	

For Puget Sound Energy:	Signature:
Jason Teller, Vice President Customer Solutions	

For the City of Seattle, City Light Department:	Signature:
Craig Smith, Director of Conservation	

For the City of Seattle, Office of Economic Development:	Signature:
Brian Surratt, Director	

For the City of Seattle, Office of Sustainability and the Environment:	Signature:
Jessica Finn Coven, Director	

For the City of Seattle, Seattle Public Utilities Department:	Signature
Ray Hoffman, Director	

For Snohomish County:	Signature
John Lovick, Snohomish County Executive	

EnviroStars Regional Green Business Program Memorandum of Agreement ATTACHMENT B

SERVICEMARK LICENSE AGREEMENT

THIS AGREEMENT is made and entered into by and between City of Bellevue, as a Member of the EnviroStars Regional Green Business Program ("Licensee"), with its principal place of business at 450 110th Ave NE, Bellevue, WA 98004, and King County, acting through its Department of Natural Resources & Parks ("Licensor"), with its principal place of business at 201 S. Jackson St, Suite 600, Seattle, WA 98104.

WHEREAS, Licensor is committed to protecting environmental and public health by working towards a community that is free from hazardous contaminants, encouraging business practices which preserve and use natural resources efficiently, and reduce waste generation at its source, and has created an environmental certification program; and

WHEREAS, Licensor is the owner of all right, title and interest in and to the Servicemark EnviroStars and the associated logo identified in Attachment A (the "Servicemark"); and

WHEREAS, Licensor is willing to grant Licensee the right to use the Servicemark solely in accordance with the terms and conditions set forth herein;

NOW THEREFORE, for and in consideration of the promises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SCOPE OF LICENSE.

1.1 GRANT OF LICENSE. Subject to the terms and conditions set forth in this Agreement, Licensor grants to Licensee a non-exclusive, non-transferable license to use the Servicemark in conjunction with EnviroStars services which shall, in part, promote Licensor's services, and may be jointly developed by Licensor and Licensee. Licensee may only use the Servicemark as a collective whole and shall not separately use any element or elements of the Servicemark.

1.2 RESERVATION OF RIGHTS. Licensor hereby reserves any and all rights not expressly and explicitly granted in this Agreement, including the Licensor's right to authorize or license use of the Servicemark or any other trademarks or names, to any third party for use in connection with any goods and services, including, but not limited to, EnviroStars Regional Green Business Program services.

1.3 Licensee may not assign, transfer, or sublicense this license.

2. LICENSE FEE. For the rights granted to Licensee herein, Licensee shall not pay the Licensor a license fee at the time of the execution of the Agreement in consideration for the rights granted herein. However Licensor reserves the right to require new consideration for any expenses incurred after the date of this Agreement in maintaining the EnviroStars brand, which has been

developed and in use since 1994. Licensee shall pay a reasonable portion of such costs at the request of Licensor.

3. OWNERSHIP OF THE SERVICEMARK.

3.1 OWNERSHIP. Licensee hereby acknowledges that the Licensor is the owner of the Servicemark, and any servicemark applications and/or registrations thereto, agrees that it will do nothing inconsistent with such ownership and agrees that all use of the Servicemark by Licensee shall inure to the benefit of the Licensor. Licensee agrees that nothing in this Agreement shall give Licensee any right, title or interest in the Servicemark other than the right to use the Servicemark in accordance with this Agreement. Licensee agrees not to register or attempt to register the Servicemark or the logo as a trademark, service mark, Internet domain name, trade name, or any similar trademarks or name, with any domestic or foreign governmental or quasi-governmental authority which would be likely to cause confusion with the Servicemark. The provisions of this paragraph shall survive the expiration or termination of the Agreement.

4. USE OF THE MARK; PROTECTION OF THE MARK.

- 4.1 PROPER USE. Licensee agrees that all use of the Servicemark shall only occur in connection with the EnviroStars services as agreed on and in strict compliance with the terms of this Agreement. Licensee may use the Servicemark as set forth in Section 1.1 as well as in connection with the promotion of the EnviroStars Regional Green Business Program ("Regional Program") services. Licensee agrees to use the Servicemark in strict compliance with the Co-branding criteria and guidelines developed by the Regional Program. The look of the graphic logo may be periodically updated by the Regional Program, with advance agreement in writing by the Local Hazardous Waste Management Program as the representative of Licensor.
- 4.2 QUALITY STANDARDS. Licensee agrees to maintain a consistent level of quality of the EnviroStars services performed in connection with the Servicemark substantially equal to that found in Licensor's existing EnviroStars Logo Use Guidelines (Attachment A to this Agreement) and Web site services; and as found on the Regional Program web platform.
- 4.3 MONITORING BY THE Licensor. Licensee acknowledges that the Licensor has no further obligations under this Agreement other than the right to periodically monitor Licensee's use of the Servicemark in conjunction with the EnviroStars services. Upon request by the Licensor, Licensee shall provide Licensor with representative samples of Regional Program shared marketing, promotion, and co-branding prior to the time the Servicemark is first published on the Internet or to the public. Use of the Servicemark on goods or services other than the EnviroStars Program services or the promotion of the EnviroStars services, shall constitute material breach of the Agreement. If such material

breach has not been cured within seven (7) business days following receipt of notice from Licensor, this Agreement shall be terminated.

- 4.4 SERVICES. If Licensor reasonably determines that Licensee's services contains or presents any materials that constitutes an infringement of the Licensor's trademark, Licensor may immediately terminate the license grant described in Section 1.1 if Licensee has not revised, removed or delinked to such material to Licensor's reasonable satisfaction within seven (7) business days of written notice from the Licensor. If the Licensor reasonably determines that the EnviroStars services contains or presents any material that could reasonably constitute a clear and unambiguous infringement of a third party's copyright, servicemark, trademark, patents or trade secrets, the Licensor and Licensee shall confer and mutually agree on a proper course of action.

5. TERMINATION.

- 5.1 TERM AND TERMINATION. This Agreement and the term of the license granted herein shall continue for the duration of the currently in effect registration of the Servicemark, i.e., through 2017, and shall automatically be extended beyond that date, without further action by either party to this Agreement, upon renewal of the registration of the Servicemark by the State of Washington for the duration of such renewal. Notwithstanding the forgoing, Licensor shall have the right to terminate this Agreement upon the occurrence of one or more of the following: (a) any material breach by Licensee of its obligation under this Agreement which remains uncured for more than seven (7) business days following written notice of such breach from Licensor, or (b) use of the Servicemark by Licensee in a manner which is directly, explicitly or maliciously disparaging of its products and services and which remains uncured for three (3) business days following notice from the Licensor.
- 5.2 TERMINATION as MEMBER UNDER THE MEMORANDUM OF AGREEMENT. This Agreement will immediately and automatically terminate in the event and on the date that Licensee's status as a Member under that certain Memorandum of Agreement, to which a form of this Agreement is attached as Attachment B, is terminated.
- 5.3 EFFECT OF TERMINATION. Upon termination of the Agreement, Licensee agrees it shall immediately cease any and all use of the Servicemark.

6. GENERAL.

- 6.1 GOVERNING LAW. This Agreement shall be subject to and governed in all respects by the statutes and laws of the State of Washington without regard to the conflicts of laws principles thereof. The Superior Court of King County shall have exclusive jurisdiction and venue over all controversies in connection herewith and each party hereby consents to such exclusive and personal jurisdiction and venue.
- 6.2 ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement and understanding between the parties and integrates all prior discussions between them related to its subject matter. No modification of any terms of this Agreement shall be valid unless in writing and signed by an authorized representative of each party.

6.3 NOTICES. All notices required or permitted hereunder shall be given in writing addressed to the respective parties as set forth below and shall either be (a) personally delivered; (b) transmitted by postage prepaid certified mail, return receipt request; or (c) transmitted by nationally-recognized private express courier, and shall be deemed to have been given on the date of receipt if delivered personally, or three (3) days after deposit in mail or express courier. Either party may change its address for purposes hereof by written notice to the other in accordance with the provision of this Subsection. The addresses for the parties are as follows:

Licensor: 130 Nickerson St #100, Seattle WA 98109

Licensee: 450 110th Ave NE, Bellevue, WA 98004

6.4 WAIVER. Any waiver, either expressed or implied, by either party of any default by the other in the observance and performance of any of the conditions, covenants of duties set forth herein shall not constitute or be construed as a waiver of any subsequent or other default.

6.5 INDEPENDENT CONTRACTORS. The parties acknowledge and agree that they are dealing with each other hereunder as independent contractors. Nothing contained in the Agreement shall be interpreted as constituting either party the joint venture or partner of the other party or as conferring upon either party the power of authority to bind the other party in any transaction with third parties.

6.6 SURVIVAL. The provisions of Section 1.2 (Reservation of Rights) 3 (Ownership of the Servicemark), 5.2 (Effect of Termination) and 6 (General) will survive any termination of this Agreement.

6.7 EQUITABLE RELIEF. Licensee recognizes and acknowledges that a breach by Licensee of the Agreement will cause the Licensor irreparable damage which cannot be readily remedied in monetary damages in an action at law, and may, in addition thereto , constitute an infringement of the Servicemark. In the event of any default or breach by Licensee that could result in irreparable harm to the Licensor or cause some loss or dilution of Licensor's goodwill, reputation, or rights in the Servicemark, the Licensor shall be entitled to immediate injunctive relief to prevent such irreparable harm, loss, or dilution in addition to any other remedies available.

6.8 SEVERABILITY. Except as otherwise set forth in this Agreement, the provisions of this Agreement are severable, and if any one or more such provisions shall be determined to be invalid, illegal or unenforceable, in whole or in part, the validity, legality and enforceability of any of the remaining provisions or portion thereof shall be changed and interpreted so as to best accomplish the objectives of such provision or portion thereof within the limits of applicable law.

7.0 INDEMNIFICATION.

All liability, claims, loss or damage arising out of this Agreement is at the sole risk of the Licensee. Licensee shall indemnify, defend and hold harmless the Licensor, its officials, employees, agents and assigns from and against any claim arising from Licensee's use of the Servicemark.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives to be effective as of the last date set forth below.

For King County:

Signature: _____


Name: Christie True
Title: Director, Department of Natural Resources & Parks
Date: _____

For City of Bellevue:

Signature: 

Name: Mary Kate Berens
Title: Deputy City Manager
Date: 10/26/2015

Approved as to form:

By:  _____
Deputy Assistant City Attorney
Date: 10/26/15

Servicemark License Agreement: ATTACHMENT A

1) Use the following **EnviroStars Program logo** to represent the program as a whole in marketing, advertising, promotional materials and venues (e.g. Business cards, letterhead, websites, electronic signatures, program reports, awards, grant applications, event/tradeshow booth exhibits and backdrop banners).



2) Use the **EnviroStars Certified logo** to represent individual businesses* which have been determined by EnviroStars Regional Program Member representatives to meet the EnviroStars program certification eligibility and qualification standards (e.g. window decal, recognition certificate, posters/signs to be placed at certified businesses, in certified business' own marketing). It can also be used to represent the EnviroStars Certification process and the broader group of EnviroStars Certified businesses on promotional and marketing materials (e.g. business and public outreach introductory brochures, certification-related web pages, listings/directories of certified businesses, visual media such as articles about certification).



3) Use **Co-branding** criteria and guidelines developed by the Regional Program. The look of the graphic logo may be periodically updated by the Regional Program, with advance agreement in writing by the Local Hazardous Waste Management Program as the representative of Licensor.

*the term "businesses" refers to commercial businesses, government agencies, organizations and others which meet the eligibility requirements for EnviroStars certification and/or recognition.

City of
Bellevue



Post Office Box 90012 • Bellevue, Washington • 98009 9012

October 2, 2015

Rebecca Lovell
Seattle Office of Economic Development
Director of Entrepreneurship and Industry Office of Economic Development
Seattle, WA 98124-4708

RE: Envirostars Regional Green Business Program, City of Bellevue Letter of Self-Insurance

Dear Ms. Lovell:

I am providing you with this letter as evidence of the City of Bellevue's insurance coverage as required under the terms and conditions of the Memorandum of Agreement: Establishing the Envirostars Regional Green Business Program. The City of Bellevue is a municipal corporation that fully self-insures its general, auto, and professional liability loss exposures under the provisions of Chapter 48.62 Revised Code of Washington (RCW). The City of Bellevue is also a self-insured employer for workers' compensation claims.

Questions regarding the City's insurance program can be referred to the Risk Management Office at (425) 452-2011.

Sincerely,



Pete Bourgeault
Risk Manager

cc: Janna Stedman