



Legislation Passed February 24, 2009

The Tacoma City Council, at its regular City Council meeting of February 24, 2009, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

Resolution No. 37733

Setting Thursday, March 26, 2009, at 9:30 a.m., as the date and time for a hearing by the Hearing Examiner, on the request to vacate the easterly 120 feet of South 34th Street between South Washington Street and South Adams Street, to create additional business yard storage. (Don and Kelly Long; File No. 124.1304)

Resolution No. 37734

Setting Thursday, March 26, 2009, at 9:30 a.m., as the date and time for a hearing by the Hearing Examiner, on the request to vacate the easterly 130 feet of North 15th Street between North Fir Street and North Juniper Street, to create a private driveway and increase the landscaping area. (Daniel E. Jones; File No. 124.1307)

Purchase Resolution No. 37735

Awarding contracts to:

1. Tucci and Sons, Inc., on its bid of \$1,359,500.00, plus sales tax, for an aggregate total of \$3,398,750.00, budgeted from the Capital Projects Fund and the General Fund, for asphalt paving mix, on an as-needed basis, through January 31, 2011, with the option to renew for three additional one-year periods – Specification No. PW08-0933F;
2. PR Systems, Inc., in the amount of \$210,000.00, plus sales tax, for a cumulative total of \$460,450.00, budgeted from the Capital Projects Fund and the General Fund, to increase and extend the contract for street grinding services on an as-needed basis through December 31, 2010 – Specification No. PW05-0216F; and
3. Pierce County Security, Inc., in the amount of \$12,000.00, sales tax not applicable, for a cumulative total of \$261,852.96, budgeted from the Solid Waste Fund, to provide payment on two remaining invoices for security officer services at the Tacoma Landfill – Specification No. PW05-0438F.

Resolution No. 37736

Authorizing the execution of a conservation easement agreement; and accepting \$147,793 from the United States Department of the Interior through the Broadway Center for the Performing Arts, for enhancements made to the Pantages Theater.

Ordinance No. 27742

Amending Chapter 13.06 of the Municipal Code to reclassify the property located at 1101 North Pearl Street from a mix of "C-1" Neighborhood Commercial District and "R-2" One-Family Dwelling District to only a "C-1" Neighborhood Commercial District for the development of a gas station, automatic car wash, and convenience store, to include two underground storage tanks totaling approximately 42,000 gallons, and associated site improvements. (Barghausen Consulting Engineers for BP West Coast Products, LLC; File No. REZ2008-40000109589)

Ordinance No. 27785

Authorizing the execution of a federal railroad administration grant with the State of Washington, in the amount of \$754,600; accepting, depositing in, and appropriating said sum from the Tacoma Rail Mountain Division Capital Projects Fund, for track upgrades on the Tacoma Rail Mountain Line.

Ordinance No. 27786

Authorizing the execution of a grant agreement with the State of Washington Office of Archaeology and Historic Preservation, in the amount of \$17,000; accepting, depositing in, and appropriating said sum from the Community and Economic Development Special Revenue Fund, for historic preservation analysis.

Ordinance No. 27787

Amending Title 16 of the Municipal Code by repealing and reenacting Subtitle 16A, relating to telecommunications systems, cable systems, private communications systems, and franchise and licensing requirements.

Ordinance No. 27790

Providing for the improvement of 82 sidewalks abutting certain properties in various locations throughout the City by constructing or reconstructing the sidewalks for public safety and convenience; and directing the levy of special assessments according to the benefits upon the respective abutting properties.

RESOLUTION NO. 37733

A RESOLUTION relating to the vacation of City property; setting a public hearing before the City of Tacoma Hearing Examiner on the petition of Donald E Long and Kelly J. Long to vacate the easterly 120 feet of South 34th Street lying between South Washington Street and South Adams Street, for the purpose of creating additional business yard storage.

WHEREAS Donald E Long and Kelly J. Long, having received the consent of the owners of more than two-thirds of the properties abutting that portion of the easterly 120 feet of South 34th Street lying between South Washington Street and South Adams Street, for the purpose of creating additional business yard storage, described as follows:

The easterly 120 feet of South 34th Street lying between Blocks 2902 and 2802, as contained within the plat of OAKLAND ADDITION TO TACOMA, W.T., filed for record on February 29, 1888, at Volume 1, Page 119, records of Pierce County, Washington.

All lands situate in the Southeast Quarter of Section 12, Township 20 North, Range 2 East, W.M.

has petitioned for the vacation of the aforesaid property; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That Thursday, March 26, 2009, at 9:30 a.m., is hereby fixed as the date and time, and the Council Chambers on the first floor of the Tacoma Municipal Building, 747 Market Street, in the City of Tacoma,

as the place, when and where said request will be heard by the Hearing Examiner, and his recommendations thereafter transmitted to the Council of the City of Tacoma.

Section 2. That the Clerk of the City of Tacoma shall give proper notice of the time and place of said hearing.

Adopted _____

Attest: _____ Mayor

City Clerk

Location: Vacate that portion of the easterly 120 feet of South 34th Street lying between South Washington Street and South Adams Street

Petitioners: Donald E Long and Kelly J. Long

Vacation Request File No. 124.1304

Approved as to form:

Property description approved:

Assistant City Attorney

Chief Surveyor
Public Works Department

RESOLUTION NO. 37734

A RESOLUTION relating to the vacation of City property; setting a public hearing before the City of Tacoma Hearing Examiner on the petition of Daniel E. Jones to vacate the easterly 130 feet of North 15th Street lying between North Fir Street and North Juniper Street, for the purpose of creating a private driveway and increasing landscaping area.

WHEREAS Daniel E. Jones, having received the consent of the owners of more than two-thirds of the properties abutting that portion of the easterly 130 feet of North 15th Street lying between North Fir Street and North Juniper Street, for the purpose of creating a private driveway and increasing landscaping area, described as follows:

That portion of North 15th Street described as follows:

Commencing at the center line intersection of North 15th and Fir Streets;

Thence N07°54'58"W along the westerly extension of the center line of North 15th Street a distance of 30.00 feet to the True Point of Beginning;

Thence continuing N87°54'58"W along the South right of way margin of North 15th Street, a distance of 130.00 feet;

Thence N01°09'34"E 30.00 feet to the North right of way margin of said street;

Thence S87°54'58"E along said margin, 130.00 feet to the West right of way margin of North Fir Street;

Thence S01°09'34"W along said margin 30.00 feet to the True Point of Beginning.

The above described property is contained within City of Tacoma Deed 1887, as filed for record under Auditor's File Number 1533916, records of Pierce County, Washington

has petitioned for the vacation of the aforesaid property; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That Thursday, March 26, 2009, at 9:30 a.m., is hereby fixed as the date and time, and the Council Chambers on the first floor of the Tacoma Municipal Building, 747 Market Street, in the City of Tacoma, as the place, when and where said request will be heard by the Hearing Examiner, and his recommendations thereafter transmitted to the Council of the City of Tacoma.

Section 2. That the Clerk of the City of Tacoma shall give proper notice of the time and place of said hearing.

Adopted _____

Mayor

Attest:

City Clerk

Location: Vacate that portion of the easterly 130 feet of North 15th Street lying between North Fir Street and North Juniper Street

Petitioner: Daniel E. Jones
Vacation Request File No. 124.1307

Approved as to form:

Property description approved:

Assistant City Attorney

Chief Surveyor
Public Works Department



RESOLUTION NO. 37735

1 A RESOLUTION related to the purchase of materials, supplies or equipment,
2 and the furnishing of services; authorizing the appropriate City officials to
3 enter into contracts and, where specified, waiving competitive bidding
4 requirements, authorizing sales of surplus property, or increasing or
5 extending existing agreements.

6 WHEREAS the City has complied with all applicable laws governing the
7 acquisition of those supplies, and/or the procurement of those services,
8 inclusive of public works, set forth in the attached Exhibit "A," which Exhibit is
9 incorporated herein as though fully set forth, and

10 WHEREAS the Board of Contracts and Awards has reviewed the
11 proposals and bids received by the City, and the Board has made its
12 recommendation as set forth in Exhibit "A," and

13 WHEREAS the Board of Contracts and Awards has also made its
14 recommendations as to entering into purchasing agreements with those
15 governmental entities identified in Exhibit "A"; Now, Therefore,

16 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

17 That the Council of the City of Tacoma does hereby concur in the
18 findings and recommendations of the Board of Contracts and Awards set forth
19 in the attached Exhibit "A," and does hereby approve and authorize the:

20 (X) A. Procurement of those supplies, services, and public works
21 recommended for acceptance in the attached Exhibit "A";

22 () B. Rejection of those bids and/or proposals that are recommended
23 for rejection in the attached Exhibit "A";
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() C. Entry into the proposed purchasing agreement with those governmental entities identified in the attached Exhibit "A," which proposed agreement is on file in the office of the City Clerk;

() D. Waiver of competitive bidding procedures in those instances, as set forth in Exhibit "A," in which it is impracticable to obtain supplies or public works improvements by competitive bid, or in those instances in which supplies and/or public works are available from a single source.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:



Assistant City Attorney



Tacoma

City of Tacoma

Public Works Department

DATE: January 26, 2009

TO: Board of Contracts and Awards

SUBJECT: Asphalt Paving Mix
Budgeted from Capital Projects Fund 3211 and General Fund 0010
Request for Bids Specification No. PW08-0933F

EXHIBIT "A"

RESOLUTION NO.: 37735

ITEM NO.: 1

MEETING DATE: FEBRUARY 24, 2009

RECOMMENDATION: Public Works – Streets and Grounds Maintenance Division recommends a contract be awarded to **Tucci & Sons, Inc., Tacoma, WA**, for the purchase of asphalt paving mix on an as needed basis. The initial contract term will be from contract award date until January 31, 2011, totaling \$1,359,500, plus sales tax, with the option of three additional one-year renewal periods totaling \$2,039,250, plus sales tax, for an aggregate total of \$3,398,750, plus sales tax. Funding for the optional three one-year renewals are subject to budget availability. The specification documents contain market-based provisions for price escalation/de-escalation that will affect overall contract value.

EXPLANATION: This contract is for asphalt mix to be used in projects for both the Arterial Program and the Residential Street Restoration Program.

COMPETITIVE SOLICITATION: Request for Bids Specification No. PW08-0933F was opened January 13, 2009. Four companies were invited to bid in addition to normal advertising of the specification. Three submittals were received. The bid received from Woodworth & Company, Inc., low bidder for zone two, is being considered non-responsive as they took exception to availability within 24 hours. Tucci & Sons, Inc. was low bidder for Zone 1 and 2nd lowest bidder for Zone 2. The table below reflects the amount of the initial contract term.

<u>Respondent</u>	<u>Location</u>	<u>Submittal Amount Plus Sales Tax</u>
Tucci & Sons, Inc	Tacoma, WA	\$ 1,359,500
Woodworth & Company, Inc.*	Tacoma, WA	\$ 1,371,000
ICON Materials	Tukwila, WA	\$ 1,580,250
	Pre-bid estimate	\$ 2,000,000

*Low Bidder Zone 2: Considered Non-Responsive

The recommended award is 32 percent below the pre-bid estimate.

CONTRACT HISTORY: New contract.

FUNDING: Funds for this contract are available in the Capital Projects Fund 3211 and General Fund 0010. Funding for optional renewals are subject to budget availability.

HUB/LEAP COMPLIANCE: N/A

PROJECT ENGINEER/COORDINATOR: John Gaddis, Streets and Grounds Maintenance Division, 591-5261.

Richard E. McKinley
Public Works Director

cc: Chuck Blankenship, Purchasing Analyst
Percy Jones/Peter Guzman, HALO
John Gaddis, Streets and Grounds Maintenance
Intern, PWD



City of Tacoma
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37735

ITEM NO.: 2

MEETING DATE: FEBRUARY 24, 2009

DATE: January 28, 2009

TO: Board of Contracts and Awards

SUBJECT: Street Grinding Services
Budgeted from Capital Projects Fund 3211 and General Fund 0010
SAP Contract No. 4600002674, Bid Specification No. PW05-0216F

RECOMMENDATION: Public Works - Streets and Grounds Maintenance Division requests approval to increase SAP Contract No. 4600002674 to **PR Systems, Inc., Lacey, Washington**, by \$210,000, plus sales tax, for street grinding services to be used in residential and arterial projects on an as-needed basis through December 31, 2010.

EXPLANATION: This contract will provide for street grinding services at various City of Tacoma job site locations as part of the Streets and Grounds Arterial and Residential Street Restoration Programs.

COMPETITIVE BIDDING: This contract was originally awarded to PR Systems, Inc., by City Council Resolution No. 36531 on June 7, 2005, as a result of formal bid Specification No. PW05-0216F in the amount of \$250,450, plus sales tax.

CONTRACT HISTORY: The contract is currently in its final two-year extension, ending December 31, 2010. This increase will bring the contract to a cumulative total of \$460,450, plus sales tax. PR Systems, Inc. has agreed to increase the contract at the same terms and conditions as the original contract.

FUNDING: Funds for this are available in the Capital Projects Fund 3211 and the General Fund 0010.

PROJECT ENGINEER/COORDINATOR: John Gaddis, Streets and Grounds Division, 591-5261.

Richard E. McKinley
Public Works Director

cc: Chuck Blankenship, Purchasing Analyst
Percy Jones/Peter Guzman HALO
Intern, PWD
John Gaddis, Streets & Grounds Maintenance Division Manager



City of Tacoma
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37735

ITEM NO.: 3

MEETING DATE: FEBRUARY 24, 2009

DATE: February 2, 2009

TO: Board of Contracts and Awards

SUBJECT: Increase Contract with Pierce County Security, Inc
Budgeted from PW Solid Waste Fund 4200
SAP contract 4600002782, Specification PW05-0438F

RECOMMENDATION: Public Works - Solid Waste Management Division requests approval to increase SAP Contract 4600002782 to **Pierce County Security, Inc., in Tacoma, WA**, by \$12,000, taxes not applicable, to provide payment on two remaining invoices.

EXPLANATION: These services are to provide unarmed security officer services at the Tacoma Landfill.

COMPETITIVE BIDDING: This contract was originally awarded to Pierce County Security by City Council Resolution 36589, on July 26, 2005, as a result of formal bid Specification No. PW05-0438F, in the amount of \$69,348.32, taxes not applicable.

CONTRACT HISTORY: The initial one year contract for \$69,348.32 was approved by City Council in July 26, 2005, by Resolution No. 36589. On June 27, 2006, the contract was increased by \$71,987.20 and extended through July 25, 2007, by Resolution No. 36901. On July 23, 2007, the contract was administratively increased by \$5,000 and on July 31, 2007, the contract was increased \$73,517.44 and extended through July 25, 2008, by Resolution No. 37242. The contract was also administratively increased in July 2008, by \$30,000 and extended until December 28, 2008. The extension allowed time to competitively bid a new contract, however the \$30,000 increase was not enough and this \$12,000 increase will allow the City to make the final payment. This final increase would make the cumulative total of this contract \$261,852.96.

FUNDING: Funds for this are available in the PW Solid Waste Fund 4200.

PROJECT ENGINEER/COORDINATOR: Jim Nunn, Resource Recovery Supervisor
573-2401.

Richard E. McKinley
Public Works Director

cc: James Wilkerson, Purchasing
Intern, PWD
Solid Waste Management

RESOLUTION NO. 37736

A RESOLUTION relating to the Pantages Theater; authorizing the execution of an agreement accepting grant funds, in the amount of \$147,793, from the U.S. Department of the Interior for enhancements made to the Pantages Theater and granting a conservation easement.

WHEREAS the City owns the Pantages Theater (“Pantages”), which is operated by the Broadway Center for the Performing Arts (“BCPA”), pursuant to a management agreement, and

WHEREAS, by adoption of Resolution No. 36564 in June 2005, the City and the BCPA entered into a Design and Construction Agreement for the renovation of the Pantages, which agreement provided, in part, that the BCPA would raise money for the renovation from other-than-City sources, and

WHEREAS the BCPA applied and has been approved for a Save America’s Treasures grant, in the amount of \$147,793, from the National Park Service, U.S. Department of the Interior, which grant is administered by the state of Washington (“State”) through the State Historic Preservation Office, and is for enhancements made to the Pantages, and

WHEREAS, as a condition of eligibility for the financial assistance from the Save America’s Treasures Grant Program, the City must grant a conservation easement in the Pantages Theater to the State, and

WHEREAS, by executing the conservation easement agreement, the City is agreeing to certain maintenance and documentation requirements and to restrict activities that would affect historically significant components of the property, and

WHEREAS it is in the City's best interest to execute a conservation easement agreement to the State; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute a conservation easement agreement and accept grant funds, in the amount of \$147,793, from the U.S. Department of the Interior through the Broadway Center for the Performing Arts for enhancements made to the Pantages Theater, said document to be substantially in the form of the proposed grant agreement on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

ORDINANCE NO. 27742

AN ORDINANCE relating to zoning; changing the zoning classifications of certain property from a mix of a C-1 Neighborhood Commercial District and R-2 One-Family Dwelling District to C-1 Neighborhood Commercial District; and amending Chapter 13.06 of the Tacoma Municipal Code by deleting certain described property from Section 13.06.110, and by adding a new section to be known as Section 13.06.200.B.2(152).

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the City Council hereby adopts the Hearing Examiner's Findings, Conclusions, and Recommendation contained in the Hearing Examiner's Report, dated June 24, 2008, bearing File No. REZ2008-40000109589 and SEP2008-40000109590 and filed in the office of the City Clerk.

Section 2. That Chapter 13.06 of the Tacoma Municipal Code is hereby amended by adding thereto a new section to be known as

Section 13.06.200.B.2(152), to read as follows:

13.06.200.B.2(152) ADDED TO "C-1 NEIGHBORHOOD

COMMERCIAL DISTRICT." The following property shall be included

in the C-1 General Neighborhood Commercial District:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF PEARL STREET AND THE NORTH LINE OF NORTH 11TH STREET IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 21 NORTH, RANGE 2 EAST, OF THE W.M., IN PIERCE COUNTY, WASHINGTON.

THENCE NORTH 200 FEET;

THENCE EAST 200 FEET;

THENCE SOUTH 200 FEET;

THENCE WEST 200 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION CONVEYED TO THE CITY OF TACOMA FOR HUNTER STREET, BY INSTRUMENT RECORDED UNDER AUDITOR'S FEE NO. 2220897; AND

EXCEPT THEREFORE THE FOLLOWING
DESCRIBED TRACT OF LAND;

BEGINNING AT THE INTERSECTION OF THE EAST
LINE OF PEARL STREET AND THE NORTH LINE
OF NORTH 11TH STREET IN THE SOUTHEAST
QUARTER OF SECTION 35, TOWNSHIP 21
NORTH, RANGE 2 EAST OF W.M.

THENCE NORTH ALONG EAST LINE OF PEARL
STREET 5 FEET;

THENCE SOUTHEASTERLY TO A POINT ON THE
NORTH LINE OF NORTH 11TH STREET, SAID
POINT BEING 5 FEET EAST OF THE POINT OF
BEGINNING;

THENCE WEST ALONG THE NORTH LINE OF
NORTH 11TH STREET 5 FEET TO THE POINT OF
BEGINNING.

SITUATE IN THE CITY OF TACOMA, COUNTY OF
PIERCE, STATE OF WASHINGTON

Section 3. That the above-described property be and is hereby deleted from Section 13.06.110 of the Tacoma Municipal Code.

Passed _____

Mayor

Attest:

City Clerk

Location: 1101 North Pearl Street
Applicant: BP West Coast Products, LLC
Rezone No. REZ2008-40000109589
SEP2007-40000109590

Approved as to form:

Property description approved:

Assistant City Attorney

Chief Surveyor
Public Works Department

ORDINANCE NO. 27785

AN ORDINANCE relating to rail line improvements; authorizing the execution of a federal railroad administration grant agreement; and accepting grant funds, in the amount of \$754,600, for deposit into and appropriation from the Tacoma Rail Mountain Division Capital Projects Fund to conduct upgrades on the Tacoma Rail Mountain Line.

WHEREAS the Tacoma Rail Mountain Line is in need of new ties and upgrades to several crossings between Frederickson and McKenna, Washington, and

WHEREAS the City has been awarded a Federal Railroad Administration Grant, in the amount of \$754,600, through the State of Washington, to conduct track upgrades on the Tacoma Rail Mountain Line; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the proper officers of the City are hereby authorized to execute the Federal Railroad Administration Grant Agreement and accept grant funds, in the amount of \$754,600, to be deposited into the Tacoma Rail Mountain Division Capital Projects Fund, said document to be substantially in the form of the proposed grant agreement on file in the office of the City Clerk.

Section 2. That the proper officers of the City are hereby authorized to appropriate said grant funds from the Tacoma Rail Mountain Division Capital Projects Fund to conduct track upgrades on the Tacoma Rail Mountain Line.

Section 3. That the funds granted to the City are designated to be used for a specific and limited purpose, and said sums are appropriated pursuant to

the provisions of RCW 35.34.200; and that the Biennial Budget of the City for the years 2009-2010 shall be deemed to be and the same is hereby amended to provide for the expenditures hereof.

Passed _____

Mayor

Attest:

City Clerk

Approved as to Form:

Assistant City Attorney

ORDINANCE NO. 27786

AN ORDINANCE relating to Historic Preservation; authorizing the execution of a grant agreement with the Washington State Office of Archaeology, in the amount of \$17,000; accepting and depositing said sum into the Community and Economic Development Special Revenue Fund; and appropriating said funds for historic preservation analysis.

WHEREAS the Washington State Office of Archaeology, Historic Preservation, Certified Local Government Program, has awarded the City \$17,000, to conduct a citywide architectural survey and inventory of historic religious-use buildings, focusing on the identification and preservation of the buildings identified as a priority by the Landmarks Preservation Commission; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the proper officers of the City are hereby authorized to execute a grant agreement with the Washington State Office of Archaeology and Historic Preservation, Certified Local Government Program, in the amount of \$17,000, said grant agreement to be substantially in the form of the proposed agreement on file in the office of the City Clerk.

Section 2. That the grant proceeds, in the amount of \$17,000, are hereby accepted for deposit into the Community and Economic Development Special Revenue Fund.

Section 3. That there is hereby appropriated the sum of \$17,000, from the Community and Economic Development Special Revenue Fund, for historic preservation analysis.

Section 4. That the funds granted to the City are designated to be used for a specific and limited purpose, and said sums are appropriated pursuant to the provisions of RCW 35.34.200; and that the Biennial Budget of the City for the years 2009-2010 shall be deemed to be and the same is hereby amended to provide for the expenditures hereof.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Assistant City Attorney

ORDINANCE NO. 27787

AN ORDINANCE relating to information technology systems; amending Title 16 of the Tacoma Municipal Code by repealing and reenacting subtitle 16A.

WHEREAS, on April 15, 1997, the City Council passed Amended Substitute Ordinance No. 26053, amending Title 16 of the Tacoma Municipal Code ("TMC"), which provided for the regulation of the occupancy and use of public rights-of-way by telecommunications systems, cable systems, and private communication systems; regulating cable systems; establishing franchise and licensing requirements; and prescribing minimum charges, terms, and conditions for the construction, maintenance, and repair of such systems, and

WHEREAS, on May 21, 2002, the City Council passed Substitute Ordinance No. 26936, amending Title 16 TMC, which created two subtitles relating to telecommunications and cable systems for the regulation of cable open video and private communications systems and to comply with federal and state law, and

WHEREAS, in light of the changes in federal and state law since that time, City staff recommends repealing and reenacting subtitle 16A to include the new proposed language; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

That Title 16 of the Tacoma Municipal Code is amended, as set forth in the attached Exhibit "A."

Passed _____

Attest:

Mayor

City Clerk

Approved as to Form:

City Attorney

EXHIBIT “A”

TITLE 16

Cable Systems, Open Video Systems, Telecommunications Systems, and Private Communications Systems

SUBTITLE 16A - Cable Systems

Chapters:

- 16A.01 General
- 16A.02 Franchise Applications
- 16A.03 Additional Rules Applicable to Cable Systems
- 16A.04 Miscellaneous

Chapter 16A.01

GENERAL

Sections:

- 16A.01.010 Purpose.
- 16A.01.020 Policy guidelines.
- 16A.01.030 Definitions.
- 16A.01.040 Franchise required.
- 16A.01.050 Cost recovery.
- 16A.01.060 General conditions upon use of Public Rights-of-Way.
- 16A.01.070 Protection of the City and residents.
- 16A.01.080 Enforcement and remedies.
- 16A.01.090 Minimum contents of every Franchise or license.
- 16A.01.100 Penalties.
- 16A.01.110 Revocation, reduction of term, or forfeiture of Franchise or license.
- 16A.01.120 Access to books and records.
- 16A.01.130 Retention of records; relation to privacy rights.
- 16A.01.140 Reports.
- 16A.01.150 Compliance with laws.
- 16A.01.160 Reservation of authority.
- 16A.01.170 No waiver.
- 16A.01.180 Subtitle not a contract.
- 16A.01.190 Transitional provisions.
- 16A.01.200 Special rules for government entities.
- 16A.01.210 No waiver.

16A.01.010 Purpose.

The purpose of this subtitle is to:

- A. Establish a local policy concerning Cable Systems that use the Public Rights-of-Way;
- B. Establish a policy that promotes the availability of diverse, multimedia information resources to the community; provides for enhancing educational opportunities throughout the community and building a stronger community; while ensuring that the City has the authority to act to protect the public, safety, and welfare in the face of a rapidly-changing industry that is placing increasing demand on public resources;
- C. Minimize unnecessary local regulation of providers and services;
- D. Encourage the provision of advanced and competitive Cable Services or Open Video System services on the widest possible basis to the businesses, institutions, and residents of the City;
- E. Secure fair, reasonable, and lawful compensation to the City and the residents of the City, in a non-discriminatory manner, for permitting use of the Public Rights-of-Way;
- F. To encourage economic development, while preserving aesthetic and other community values, and preventing proliferation of above-ground facilities;
- G. Ensure that all Persons providing Cable Services or open video facilities or services within the City comply with the ordinances, rules, and regulations of the City;
- H. Ensure the ability of the City to obtain sufficient information from Persons subject to its jurisdiction to enable effective decisions regarding their access to City Public Rights-of-Way and effective management of activity in the Public Rights-of-Way;
- I. Ensure that the City can continue to fairly and responsibly protect the public health, safety, and welfare; and
- J. Enable the City to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

16A.01.020 Policy guidelines.

The administration of this subtitle shall be governed by the following video programming policy guidelines:

A. The City of Tacoma supports efforts to establish an open, competitive marketplace for video programming services. The City promotes and encourages competition for video and video programming services that make the latest and best technology available and keep service prices affordable for all City residents and businesses. An integral component of this open marketplace is the consistent application of regulations to all video programming providers and the preservation of local authority over matters of local impact.

B. The following policy guidelines express the commitment of the City to support video programming services and to manage its Public Rights-of-Way proactively, while balancing the interests and needs of the community:

1. The City will manage access to its Public Rights-of-Way for video programming purposes in a non-discriminatory, competitively neutral, and non-exclusive way to the extent required by applicable law and, to the extent allowed by applicable law, to receive fair compensation. The public interest will be protected by collecting fair, reasonable, and lawful compensation, associated fees, taxes, administrative costs, and construction costs for use of the Public Rights-of-Way.

2. Investments by video programming providers will be encouraged in order to enhance economic development programs and provide jobs, opportunities, and choices for its citizens.

3. Universal access to video programming services is encouraged for all residents and businesses.

16A.01.030 Definitions.

For the purposes of this Subtitle 16A, the following terms, phrases, words, and abbreviations shall have the meanings given herein unless otherwise expressly stated. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, words in the singular number, include the plural number; and the masculine gender includes the feminine gender. The words “shall” and “will” are mandatory, and “may” is permissive. Unless otherwise expressly stated, words not defined in Title 16 shall be construed consistent with Title 47 of the United States Code, and, if not defined therein, their common and ordinary meaning. References to governmental entities (whether Persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the

renumbered provision. References to laws, ordinances, or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances, and regulations now in force or hereinafter enacted or amended.

A. “Affiliate” means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another Person.

B. “Application Fee” means the charge specified in Sections 16A.01.050.C.1 and designed to recover the City’s actual costs in processing applications for Franchises, including applications for the Transfer thereof.

C. “Basic Cable Service” means any Service Tier that includes the retransmission of local television broadcast signals.

D. “Cable Act” means the Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

E. “Cable Operator” means any Person or group of Persons: (1) who provides Cable Service over a Cable System and directly or through one or more Affiliates owns a significant interest in such Cable System; or (2) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

F. “Cable Service” means:

1. The one-way transmission to Subscribers of (a) video programming, or (b) other programming service; and
2. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

G. “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service, which includes video programming and which is provided to multiple Subscribers within a community; but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations;

2. A facility that serves Subscribers without using any Public Rights-of-Way;

3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II (Common Carriers) of the Communications Act of 1934, as amended, except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

4. An Open Video System that complies with 47 U.S.C. § 573; or

5. Any facilities of any electric utility used solely for operating its electric utility systems.

H. “City” means the City of Tacoma and all departments, divisions, and agencies thereof, including the Department of Public Utilities.

I. “City Manager” means the City Manager or the City Manager’s designee.

J. “Franchise” refers to the authorization granted by the City to an Operator of a Cable System, or an Open Video System under this subtitle giving the Operator the non-exclusive right to occupy the space, or use facilities upon, across, beneath, or over any Public Rights-of-Way in the City, to provide a Cable Service within a Franchise Area. Any Franchise shall be issued in the form of an ordinance, and must be accepted by the Franchisee to become effective in the time and manner specified in the City Charter, Tacoma Municipal Code, or the Franchise ordinance. Such Franchise shall not include or be a substitute for:

1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City required by the ordinances and laws of the City;

2. Any permit, agreement, or authorization required in connection with operations on or in public streets or property, including, by way of example and not limitation, street cut permits; or

3. Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by the Franchise including, without limitation, permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the City, including the Department of Public Utilities, or a private entity.

By way of example, and without limiting the foregoing, this subtitle shall not be read to diminish, or in any way affect, the authority of the Department of Utilities to control and charge for the use of the Light, Water, and Belt Line Divisions' real estate, fixtures, or personal property. Therefore, any Person who desires to use such property must obtain additional approvals, Franchises, or agreements for that purpose, as may be required by the City.

K. "Franchise Area" means the area of the City that a Franchisee is authorized to serve by the terms of its Franchise or by operation of law.

L. "Franchisee" refers to a Person holding a Franchise granted by City ordinance.

M. "FCC" means the Federal Communications Commission or its successor.

N. "Open Video System" or "OVS" refers to a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service, which is provided to multiple Subscribers within a community, and which the FCC or its successor has certified as compliant with Part 76 of its rules, 47 C.F.R., Part 76, as amended from time to time. For purposes of Subtitle 16A, and Open Video System shall be considered the same as a Cable System, and all regulations contained in this subtitle governing Cable Systems shall apply equally to Open Video Systems to the extent consistent with applicable law.

O. "Operator" means a Cable Operator.

P. "Overhead Facilities" refers to electric utility and communications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

Q. "Person" includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the City.

R. "Programmer" refers to any Person, other than the Cable Operator, who provides video programming to Subscribers over a Cable System or an Open Video System, excluding video programming delivered not for a charge over a public, educational, or governmental ("PEG") channel.

S. "Public Rights-of-Way" mean the public streets and easements which, under the City Charter, the Tacoma Municipal Code, City ordinances, and applicable laws the City has authority to grant Franchises, permits, or licenses for use thereof or has regulatory authority thereover, and as may be more specifically defined in the Franchise, license, or permit granting any right to or use thereof, excluding railroad rights-of-way, airport, and harbor areas. Public Rights-of-Way, for the purpose of this

subtitle, do not include buildings, parks, poles, or similar facilities or property owned by or leased to the City, including, by way of example and not limitation, structures in the Public Rights-of-Way such as utility poles and light poles.

T. “Service Tier” means a package of two or more Cable Services for which a separate charge is made by the Franchisee, other than a package of premium and pay-per-view services that is not subject to rate regulation under the Cable Act and applicable FCC regulations because those services are also sold on a true à la carte basis.

U. “Subscriber” means the City, any government entity, or any Person who legally receives any Cable Service from a Cable Operator delivered over that Cable Operator’s Cable System.

V. “Subtitle,” when used in the context of referring to this subtitle of the Tacoma Municipal Code, shall mean this Subtitle 16A of the Tacoma Municipal Code and Chapters 16A.01 through 16A.04 hereof.

W. “Telecommunications Service” means the transmission for hire of information in electronic or optical form, including, but not limited to, voice, video, or data, whether or not the transmission medium is owned by the provider itself. Telecommunications Service includes telephone service, but does not include Cable Service or over-the-air broadcasts to the public-at-large from facilities licensed by the FCC or any successor thereto.

X. “Telecommunications System” means a tangible facility that is used to provide one or more Telecommunications Services, any portion of which occupies Public Rights-of-Way. The term Telecommunications System, by way of example, and not limitation, includes wires, equipment cabinets, guys, conduit, radio transmitting towers, poles, other supporting structures, and associated and appurtenant facilities used to transmit telecommunications signals. The term Telecommunications System includes all devices mounted on light poles in the Public Rights-of-Way through which Telecommunications Services are originated or terminated. An Open Video System is not a Telecommunications System to the extent that it provides only video services; a Cable System is not a Telecommunications System to the extent that it provides only Cable Service.

Y. “Transfer” means any transaction in which:

1. All or a portion of the Cable System is sold or assigned (except a sale or assignment that results in removal of a particular portion of the facility from the Public Rights-of-Way);

2. There is any change, acquisition, or direct or indirect Transfer of control of the Franchisee;

3. The rights and/or obligations held by the Franchisee under the Franchise are transferred, sold, assigned, or leased, in whole or in part, directly or indirectly, to another party; or

4. The transfer of stock in a corporation so as to create a new controlling interest constitutes a Transfer. The term “controlling interest” is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

In succeeding provisions of this subtitle, all these activities are referred to as Franchise Transfers.

16A.01.040 Franchise required.

A. Purpose and characteristics. In order to enable the City to treat Persons providing similar services similarly, as may be appropriate to comply with applicable law and considering differences in circumstances, and to comply with requirements of federal law, which may require the City to separate its authority over Cable Systems from its authority over other providers of Telecommunications Services, the City requires individual franchises for the provision of particular services. The revocation of a franchise for one particular service in and of itself will not affect the authority of a Franchise holder to continue to occupy the Public Rights-of-Way to provide services for which it holds other franchises. No Franchise shall be exclusive. The issuance of a Franchise shall not affect the City’s right to itself construct, operate, or repair any communications facility, with or without a Franchise.

B. Franchise requirement. An Operator of a Cable System must obtain a Franchise prior to providing Cable Service; an Operator of an Open Video System must obtain a Franchise before providing services via an Open Video System. No Franchise shall become effective without the Franchisee signing an acceptance of the ordinance which grants it the Franchise. The fact that a particular franchised communications facility may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a Cable Operator of a Cable System must obtain a cable Franchise and, should it intend to provide Telecommunications Services over the same facilities, must also obtain a telecommunications Franchise. No Franchise shall become effective without the Franchisee signing an acceptance of the ordinance which grants it the Franchise.

C. Nature of grant. A Franchise shall not convey title, equitable or legal, in the Public Rights-of-Way. The right granted is only the right to occupy those portions of the Public Rights-of-Way to which the City has the right to grant access, for the

purposes and for the period stated in the Franchise, and, subject to the limitations in this section and elsewhere in this subtitle, the right may not be subdivided or subleased. Every Franchise shall be:

1. Interpreted in a manner that conforms to the requirements of Article VIII of the Tacoma City Charter;
2. Deemed to include all the provisions that are required to be in a Franchise under that article, as if fully set forth in the Franchise;
3. Deemed to provide for forfeiture under the circumstances set forth in the Charter, as well as under the provisions of this subtitle and any Franchise ordinance thereunder; and
4. Drafted to specify the specific easements granted by City for Operator's use of the Public Rights-of-Way.

D. No reference herein, or in any Franchise, to a Public Rights-of-Way shall be deemed to be a representation or guarantee by the City that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a Franchise shall be deemed to grant no more than those rights which the City may have the undisputed right and power to give.

16A.01.050 Cost recovery.

A. Purpose. To ensure that the City, as far as possible, is compensated for the rights granted and receives fair, reasonable, and lawful compensation for use of Public Rights-of-Way over which it exercises control, or which is held in public trust; and in order that the City is compensated for reasonable and lawful expenses arising from the use of those Public Rights-of-Way, the City shall, pursuant to this subtitle, require Persons using its Public Rights-of-Way to provide Cable Service to pay compensation as may be permitted under applicable law.

B. Compensation for use. Every Operator of a Cable System shall pay a Franchise fee as required by this subtitle, except as provided in Section 16A.01.050.D. Every Operator that is subject to the exceptions in Section 16A.01.050.D and every Programmer or OVS Operator that uses the rights-of-way is subject to the condition that, should the exception ever be eliminated or modified, the Operator or reseller or Programmer shall be obligated to pay such compensation that would otherwise be required in the absence of the exception.

C. Payments required. Except as otherwise expressly provided in this subtitle, every Cable Operator must:

1. Pay an Application Fee for the consideration of an application for issuance of a Franchise, pursuant to Section 16A.02.030.A. The City Manager, at any time, may require the applicant to deposit additional sums if it appears that the initial deposit or subsequent deposits will be exhausted prior to the final action by the City relating to the consideration by the City of an application for issuance of a Franchise. The applicant will not be entitled to further consideration by the City of its requested action until such time as the additional deposit required by the City Manager has been deposited with the City. In the event the amount of the deposit of an applicant is in excess of the amount of the administrative expenses of the City related to the action requested, then the applicant shall be entitled to a return of any such excess amount; and

2. Pay the fees required by Sections 12.02.050 and 12.02.060 of Title 12 of this code.

D. Exceptions. The Franchise fees required under this subtitle need not be paid if state law or the City Charter requires otherwise, or during any transition period as described in Section 16A.01.190 for a current Franchise holder. This exception shall be read narrowly; an Operator that is engaged in one line of business that is subject to this exception, shall not be excused from paying the Franchise fee for its other lines of business. In cases subject to this exception, the highest permissible fee shall be paid.

E. Application to Persons that provide different types of services. The fact that a fee is paid on one type of service provided over a Cable System, does not excuse an Operator from its duty to pay fees on other types of services provided over that facility as required by Title 16. As an example, and not as a limitation of the foregoing, the operator of a Telecommunications System must pay a franchise fee under Subtitle 16B to the extent it provides Cable Services to Subscribers via a Cable System.

F. General rules for payment of fees and assessments.

1. Unless otherwise specified in a Franchise, Franchise fees shall be paid to the City monthly, and not later than 25 days after the end of the month for which the fee or assessment is owed.

2. No acceptance by the City of any Franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such Franchise fee payment be construed as a release of any claim the City may have for additional sums payable.

3. The Franchise fee payment is not a payment in lieu of any tax, fee, or other assessment, except as specifically provided in this subtitle or as required by applicable law. By way of example, and not limitation, permit fees and business license taxes are not waived and remain applicable.

4. If payments are late, in addition to paying any applicable penalties or damages, the Person that owes the fee shall pay interest on the amount owed at the rate of 1 percent per month or fraction thereof compounded monthly.

5. The City may, from time to time and upon reasonable advance written notice, inspect and audit any and all books and records reasonably necessary to determine whether fees have been accurately computed and paid. The Operator must make available the books and records, or copies thereof, to the City, as provided in the Franchise agreement.

6. Notwithstanding the foregoing, in the event that a Person that is obligated to pay a fee ceases to provide service for any reason (including as a result of a Transfer), such Person shall make a final payment of any amounts owed to the City within ten calendar days of the date its operations in the City cease, and shall provide a statement of gross revenues for the calendar year through the date operations ceased, which statement shall contain the information and certification required by Section 16A.01.050.

16A.01.060 General conditions upon use of Public Rights-of-Way.

A Franchisee shall be responsible to comply with all provisions of the Tacoma Municipal Code, as amended, any regulations promulgated thereunder, and any other generally applicable laws related to the use of the Public Rights-of-Way.

16A.01.070 Protection of the City and residents.

A. Indemnification. Unless otherwise approved by the City's Risk Manager, no Franchise or other authorization to use the Public Rights-of-Way issued to a Cable Operator shall be valid or effective until and unless the City obtains an adequate indemnity from such Operator. The indemnity must at least:

1. Release the City from and against any and all liability and responsibility in or arising out of the construction, operation, or maintenance of the facilities. Each Cable Operator must further agree not to sue or seek any money or damages from the City in connection with the above-mentioned matters;

2. Indemnify and hold harmless the City, its trustees, elected and appointed officers, agents, and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the City or any third party arising out of, or by reason of, or resulting from or of the acts, errors, or omissions of the Cable Operator, or its agents, independent contractors, or employees related to or in any way arising out of the construction, operation, or repair of the Cable System.

3. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any Franchise or other authorization and continue in full force and effect as to the party's responsibility to indemnify.

B. Insurance. Unless otherwise approved by the City's Risk Manager, no Franchise or other authorization to use the Public Rights-of-Way issued to a Cable Operator shall be valid or effective until and unless the City obtains assurance that such Operator (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:

1. A Cable Operator shall not commence construction or operation of the facility without obtaining all insurance required under this paragraph and approval of such insurance by the Risk Manager of the City, nor shall a Cable Operator allow any contractor or subcontractor to commence work on its contract or subcontract until all similar such insurance required of the same has been obtained and approved. The required insurance must be obtained and maintained for the entire period the Cable Operator has facilities in the Public Rights-of-Way, and for a period thereafter as specified in the minimum coverages described below. If the Operator, its contractors, or subcontractors do not have the required insurance, the City may order such entities to stop operations until the insurance is obtained and approved.

2. Certificates of insurance, reflecting evidence of the required insurance and naming the City as an additional insured, shall be filed with the City's Risk Manager. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and, as provided below, in the event of a lapse in coverage. For entities that have facilities in the Public Rights-of-Way as of the effective date of this subtitle, the certificate shall be filed within 60 days of the effective date of this subtitle, annually thereafter, and as provided below in the event of a lapse in coverage, unless a pre-existing Franchise provides for filing of certificates in a different manner.

These certificates shall contain a provision that coverages afforded under these policies will not be canceled until at least 30 days' prior written notice has been given to the City. Policies shall be issued by companies authorized to do business under the laws of the state of Washington. Financial Ratings must be no less than "A" in the latest edition of "Bests Key Rating Guide," published by A.M. Best Guide.

In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the Franchise, then, in that event, the Cable Operator shall furnish, at least 30 days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage has been or will be obtained prior to any such lapse or termination during the balance of the period of the Franchise under which the Cable System operates.

3. A Cable System owner or Operator, and its contractors or subcontractors engaged in work on the Operator's behalf in, on, under, or over Public Rights-of-Way, shall maintain the following minimum insurance. The City shall be named as an additional insured on the general liability and automotive policies.

Comprehensive general liability insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- (a) Bodily Injury
 - (1) Each occurrence \$1,000,000.00
 - (2) Annual aggregate \$3,000,000.00
- (b) Property Damage
 - (1) Each occurrence \$1,000,000.00
 - (2) Annual aggregate \$3,000,000.00
- (c) Personal Injury
 - Annual aggregate \$3,000,000.00

(d) Completed operations and products liability shall be maintained for two years after the termination of the Franchise (in the case of the Cable Operator) or completion of the work for the Cable Operator (in the case of a contractor or subcontractor).

(e) Property damage liability insurance shall include coverage for the following hazards: X - explosion, C - collapse, U - underground.

4. Workers' compensation insurance shall be maintained during the life of this contract to comply with statutory limits for all employees, and, in the case any work is sublet, each Cable Operator shall require the subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by each Cable Operator. Each Cable Operator and its contractors and subcontractors shall maintain during the life of this policy employers liability insurance. The following minimum limits must be maintained:

- (a) Workers' Compensation Statutory
- (b) Employer's Liability \$500,000.00 per occurrence
- (c) Comprehensive Auto Liability

Bodily Injury

(1) Each occurrence	\$1,000,000.00
(2) Annual aggregate	\$3,000,000.00

Property Damage

(1) Each occurrence	\$1,000,000.00
(2) Annual aggregate	\$3,000,000.00

Coverage shall include owned, hired, and non-owned vehicles.

5. Each Cable Operator shall hold the City, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of its construction, operation or repair of its Cable System and name the City as an additional insured.

6. In every Franchise agreement, the City shall reserve the right to require any other insurance coverage it deems necessary depending upon the exposures.

C. Security Fund. Unless reduced as provided hereinbelow, every Cable Operator shall establish a cash security fund or provide the City an irrevocable letter of credit in an amount no less than \$50,000.00, to secure the payment of fees owed, to secure any other performance promised in a Franchise, and to pay any taxes, fees, or liens owed to the City. The letter of credit shall be in a form and with an institution acceptable to the City's Director of Finance and in a form acceptable to the City Attorney. Should the City draw upon the cash security fund or letter of credit, it shall promptly notify the Cable Operator, and the Cable Operator shall promptly restore the fund or the letter of credit to the full required amount. This security fund/letter of credit may be waived or reduced by the City, pursuant to the terms of the Franchise agreement.

16A.01.080 Enforcement and remedies.

The City Manager is responsible for enforcing and administering Subtitle 16A and the City Manager is authorized to give any notice required by law or under any Franchise, including, by way of example and not limitation, a notice required under 47 U.S.C. § 546. The City Manager is also authorized to seek information from any Cable Operator, to establish forms for submission of applications and other information, and to take all other actions necessary or appropriate to the administration of this subtitle or any Franchise. Franchises may only be denied, issued, or revoked by action of the City Council.

16A.01.090 Minimum contents of every cable Franchise.

A. In addition to satisfying the other applicable requirements of this chapter, every Franchise for a Cable System shall contain the following provisions:

1. The Franchise shall provide that neither the granting of any Franchise, or any provision thereof, shall constitute a waiver or bar to the exercise of any governmental right or power, police power, or regulatory power of the City as may exist at the time the Franchise is issued or thereafter be obtained.

2. The Franchise shall only authorize occupancy of the Public Rights-of-Way to provide the services and for the purposes described in the Franchise.

3. A Franchise shall be a privilege that is held in the public trust and personal to the original Franchisee. The Franchise shall ensure that no Transfer of the Franchise may occur, directly or indirectly, without the prior consent of the City; except as contemplated by Section 16A.03.060.F, or as otherwise expressly provided in this subtitle.

4. The Franchise shall ensure that any Person placing a Cable System in the Public Rights-of-Way will not unlawfully discriminate in hiring, in contracting, or in the provision of services.

5. The Franchise shall be for a specified term set forth in the Franchise. No Franchise issued under this subtitle shall be for a term of longer than ten years, unless the Council determines that a longer period would be in the City's interest.

6. Such other terms as are required by the City Charter.

16A.01.100 Penalties.

Any Person found to have violated any of the provisions of this subtitle shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding 90 days or by both such fine and imprisonment. Each day that any such violation of this Subtitle 16A continues shall constitute a separate offense. Notwithstanding the forgoing, nothing in this section shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this subtitle.

16A.01.110 Revocation, reduction of term, or forfeiture of Franchise.

A. Revocation. In addition to all other rights of the City under a cable Franchise, the City shall have the right to revoke the Franchise: (1) for violations of material provisions of this subtitle or of a Cable Operator's Franchise agreement; (2) for defrauding or attempting to defraud the City or Subscribers; (3) if the Franchisee abandons the Cable System, or willfully refuses to provide service to the City or any part of the City in accordance with its Franchise; (4) for failure to complete any system upgrade required by its Franchise by the prescribed date so that at least 75 percent of all plant miles are rebuilt and are serving Subscribers from the upgraded system will result

in the automatic forfeiture of the Franchise if: (a) the City has provided the Franchisee with notice that the upgrade must be completed, and (b) the upgrade is not completed within 90 days after the date on which the City provides notice so that at least 75 percent of all plant miles are rebuilt and are serving Subscribers.

B. Reduction of term. Where, after notice and providing the Franchisee an opportunity to be heard (if such opportunity is timely requested by a Franchisee), the City finds that any conditions exist that would support Franchise revocation, the City may make an appropriate reduction in the remaining term of the Franchise or revoke the Franchise. The City Manager is authorized to establish and conduct a proceeding that complies with the requirements of this Section 16A.01.110.B, and to issue a recommended decision, but any such decision may be appealed to the City Council. Any appeal must be filed within 30 days of the decision of the City Manager or it shall be deemed waived. Notwithstanding the foregoing, the Franchise may only be revoked if the Franchisee: (1) was given notice of the default; and (2) was given 30 days to cure the default; and (3) the Franchisee failed to cure the default, or to propose a schedule for curing the default acceptable to the City where it is impossible to cure the default in 30 days. The required notice may be given before the City conducts the proceeding required by this paragraph. No opportunity to cure is allowed for fraud which shall be deemed incurable.

C. Forfeiture of Franchise. Notwithstanding the foregoing Section 16A.01.110.B, the City may declare a Franchise forfeited without opportunity to cure or the notice required by Section 16A.01.110.B where the Franchisee: (1) fails to begin to exercise its rights under the Franchise within a period specified in the Franchise; (2) stops providing service it is required to provide in the Franchise; (3) without the prior consent of the City, Transfers the Franchise; (4) fails to pay any undisputed annual occupancy fees or Franchise fees owed hereunder; or (5) defrauds or attempts to defraud the City or the Operator's customers. However, a Franchisee shall have the right to receive 30 days' prior notice of an intent to declare a Franchise forfeited, and shall have the opportunity to show cause why the Franchise should not be forfeited.

D. Bankruptcy. Notwithstanding the foregoing Sections 16A.01.110.B-C, a Franchise will automatically terminate by force of law 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless such termination would be prohibited by applicable law. However, the Franchise may be reinstated within that 120-day period, if: (1) such assignment, receivership, or trusteeship has been vacated; or (2) such assignee, receiver, or trustee has fully complied with the terms and conditions of this subtitle and the Franchise and has executed an agreement, approved by any court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of this subtitle and the Franchise.

However, in the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a Franchisee or licensee, the City may revoke the Franchise, following a public hearing before the City Council, by serving notice upon the Franchisee and the successful bidder at the sale, in which event the Franchise and all rights and privileges of the Franchise will be revoked and will terminate 30 calendar days after serving such notice, unless the City has approved the Transfer of the Franchise to the successful bidder, and the successful bidder has covenanted and agreed with the City to assume and be bound by the terms and conditions of the Franchise and this Subtitle 16A.

E. Relation to insurance and indemnity requirements. Recovery by the City of any amounts under insurance, the construction/performance bond, the letter of credit, or otherwise does not limit the Franchisee's duty to indemnify the City in any way; nor shall such recovery relieve the Franchisee of its obligations under the Franchise, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have.

F. Effect of termination or forfeiture. Upon termination or forfeiture of a Franchise, whether by action of the City as provided above or by passage of time, the Franchisee shall be obligated to cease using the Cable System for the purposes authorized by the Franchise. The City may either take possession of some or all of the Franchisee's facilities in the Public Rights-of-Way or require the Franchisee or its bonding company to remove some or all of the Franchisee's facilities from the Public Rights-of-Way and restore the Public Rights-of-Way to the condition specified in Title 10 of the Tacoma Municipal Code. Should the Franchisee neglect, refuse, or fail to remove such facility, the City may remove the facility at the expense of the Franchisee. The obligation of the Franchisee to remove shall survive the termination of the Franchise for a period of two years; provided, that this provision does not permit the City to take possession of, or require the Franchisee to remove, any facilities that are used to provide another service for which the Franchisee holds a valid Franchise issued by the City.

G. Remedies cumulative. All remedies under this Subtitle 16A and any Franchise are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve a Cable Operator of its obligations to comply with its Franchise. Remedies may be used singly or in combination; in addition, the City may exercise any rights it has at law or equity. Recovery by the City of any amounts under insurance, the performance bond, the security fund or letter of credit, or otherwise, does not limit a Cable Operator's duty to indemnify the City in any way; nor shall such recovery relieve a Cable Operator of its obligations under a Franchise, limit the amounts owed to the City, or in any respect prevent the City from exercising any other right or remedy it may have.

16A.01.120 Access to books And records.

A. Each Cable Operator shall provide the City reasonable access to all books and records related to the City’s oversight and enforcement authority pursuant to any Franchise, this Code, or any other applicable law, in accordance with the provisions of a Franchise agreement. The City may inspect any books and records and copy non-confidential books and records. The Operator’s obligation includes the obligation to reasonably produce all books and records related to revenues derived from the operation of the Cable System to the extent that system revenues affect the fees or taxes charged or burdens imposed on the Operator under a Franchise. An Operator is responsible for obtaining or maintaining the necessary possession or control of all such books and records related to the construction, operation, or repair of the Cable System, so that it can produce the documents upon request. Books and records must be maintained for a period of five years, except that: (1) any record that is a public record must be maintained for no less than the period required by state law; and (2) a Franchise may specify a shorter period for certain categories of voluminous books and records where the information contained therein can be derived simply from other materials.

B. For purposes of this subtitle, the terms “books and records” shall be read expansively to include information in whatever format stored. Books and records requested shall be produced to the City in accordance with the provisions of a Franchise agreement.

C. Without limiting the foregoing, the Operator of a Cable System shall make available to the City the following within ten days of their receipt or (in the case of documents created by the Operator or its Affiliate) filing:

1. Notices of deficiency or forfeiture related to the operation of the Cable System; and

2. Copies of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the Franchisee or by any partnership or corporation that owns or controls the Franchisee, directly or indirectly.

16A.01.130 Retention of records; relation to privacy rights.

Each Cable Operator shall take all reasonable steps required, if any, to ensure that it is able to provide the City all information which must be provided or may be requested under this subtitle, a Franchise, or applicable law, including by providing appropriate Subscriber privacy notices. Each Operator shall be responsible for redacting any data that applicable law prevents it from providing to the City. Nothing in this section shall be read to require an Operator to violate state or federal law protecting Subscriber privacy.

16A.01.140 Reports.

The City Manager may require Operators of a Cable System to maintain records and to prepare reports relevant to determining the compliance of the Cable Operator with the terms and conditions of this subtitle and their Franchises. Operators shall maintain such records and provide such reports additionally as are specifically required by Chapters 16A.01, 16A.02, 16A.03, and 16A.04 of this subtitle.

16A.01.150 Compliance with laws.

Each Franchisee shall comply with all applicable laws related to use of the Public Right-of-Way and all other applicable laws heretofore and hereafter adopted or established during the entire term of its Franchise.

16A.01.160 Reservation of authority.

The City may do all things which are necessary and convenient in the exercise of its jurisdiction under this subtitle.

16A.01.170 No waiver.

The failure of the City to insist on timely performance or compliance by any Person holding a Franchise shall not constitute a waiver of the City's right to later insist on timely performance or compliance by that Person or any other Person holding such a Franchise.

16A.01.180 Subtitle not a contract.

The City expressly reserves the right to amend this subtitle from time-to-time in the exercise of its lawful powers. The provisions of this subtitle shall not be construed to create or to be a contract.

16A.01.190 Transitional provisions.

A. Persons operating without a Franchise. The Operator of any facility, the operation of which is required to be Franchised under this subtitle, shall have three months from the effective date of this Subtitle 16A to file an application for a Franchise under this ordinance. Any Cable Operator timely filing such an application shall not be subject to a penalty under Section 16A.01.100 hereof for failure to have such a Franchise, as long as said application remains pending; provided, however, nothing herein shall relieve any Cable System Operator of any liability for its failure to obtain any Franchise, permit, or other authorization required under other provisions of the Tacoma Municipal Code, and nothing herein shall prevent the City from requiring removal of any facilities installed in violation of the Tacoma Municipal Code.

B. Persons holding Franchises. Any Person holding an outstanding Franchise from the City for a Cable System may continue to operate under the existing Franchise to the conclusion of its present term (but not any renewal or extension thereof) with respect to those activities expressly authorized by the Franchise; provided, however, that such Franchisee may elect at any time to apply for a superseding Franchise under this subtitle and must seek additional Franchises to provide other services; and, provided further, that, such Person shall be subject to the other provisions of this subtitle to the extent permitted by law.

C. Persons with pending applications. Pending applications shall be subject to this subtitle. A Person with a pending application shall be provided 30 days from the effective date of this subtitle to submit additional information to comply with the requirements of this subtitle governing applications.

D. Transitional rules to be narrowly interpreted. It is the intent of the City to apply the provisions of this subtitle to Cable System Operators, including local exchange carriers that now occupy or may in the future occupy Public Rights-of-Way, except to the extent federal or state law prevents it from doing so.

16A.01.200 Special rules for government entities.

Nothing herein requires the City to enforce this subtitle against other governmental agencies providing Cable Services in the City if the City is prevented from doing so as a matter of law. The City is authorized to enter into agreements with other governmental agencies to facilitate the City's use and management of its Public Rights-of-Way, and such agreements shall be enforceable according to their respective terms.

16A.01.210 No waiver.

The failure of the City to enforce any provision of this subtitle on any occasion shall not operate as a waiver or estoppel of this right to enforce any provision of this subtitle on any other occasion, nor shall the failure to enforce any prior ordinance or City Charter provisions affecting Cable Systems or Cable Operators act as a waiver or estoppel against application of this subtitle or any other provision of applicable law.

Chapter 16A.02

FRANCHISE APPLICATIONS

Sections:

- 16A.02.010 Relation to 47 U.S.C. §§ 541, 545 and 546.
- 16A.02.020 Applications for grant of Franchise.
- 16A.02.030 New Franchise Application Fees.
- 16A.02.040 Open records/confidentiality.
- 16A.02.050 Review process.
- 16A.02.060 Procedure for cable Franchise renewals.
- 16A.02.070 Applications for modification of Franchise.

16A.02.010 Relation to 47 U.S.C. §§ 541, 545, and 546.

This Chapter 16A.02 shall be read and applied so that it is consistent with Sections 621, 625, and 626 of the Cable Act, 47 U.S.C. §§ 541, 545, and 546 to the extent the City is required to comply with those Cable Act sections; provided, however, that nothing herein shall be read to incorporate those provisions into the Tacoma Municipal Code, or prevent the City from challenging their applicability or to give any entity a right or a right of action or impose any obligation on the City which it would not otherwise have under such federal laws. The City may adopt procedures for conducting any proceedings required under federal law, including, without limitation, procedures for presentation of evidence; and may also specify the person or entity that will conduct any administrative hearing that may be required by federal law, should the City Council decide that it does not wish to conduct the proceeding itself. In any case, however, the final decision to deny or grant renewal shall remain with the City Council.

16A.02.020 Applications for grant of Franchise.

A. Written application.

1. A written application shall be filed with the City for the grant of an initial Franchise. Each entity that is required to hold a Franchise must submit an application therefore to the City Manager in accordance with the requirements of Chapter 16A.02. To be accepted for filing, an applicant must file an original and six copies of a complete application for a Franchise. An application may be filed by any Person on that Person's own initiative or in response to a request for proposals. The City Manager is authorized to issue requests for proposals from time to time.

2. The City shall accept and review only those applications that include complete responses to every requirement of Section 16A.02.020. Submission of

an application that does not include the requisite information set forth in Section 16A.02.020 and the Application Fee shall not commence the time period for granting or denying any application governed by 47 C.F.R. §76.41(d). The applicant shall submit additional or updated information as necessary to ensure the requisite information provided is complete and accurate throughout the City's review of the application.

B. Contents of applications. Except as expressly modified by the City for good cause, a request for proposals for a cable Franchise shall be deemed to require, and any application submitted pursuant to this Section 16A.02.020 shall contain, at a minimum, the following information:

1. Identity of the applicant, including the name, address, telephone number, and web site (if applicable); the name, address, telephone number, and e-mail address of all individual(s) authorized to represent the applicant before the City during its consideration of the Franchise(s) requested; management/organizational information, showing the management structure of the applicant. A similar chart shall also be provided identifying the relationship of the applicant to all general partners, parent corporations, subsidiaries, Affiliates, and all other subsidiaries of parent corporations, including a brief description of each entity's relationship to the applicant.

2. An applicant shall list all Cable Systems in which it or any Affiliate owns more than 5 percent of the system.

3. Identification of the area of the City to be served by the proposed Cable System, including a description of the proposed Franchise Area's boundaries.

4. Technical qualifications, planned Services and operations.

(a) The application shall describe the applicant's planned initial and proposed Cable Services geographic area, including a map of all areas proposed to be served and proposed dates for offering service to each area, including a description of the miles of plant to be installed and a description of the size of equipment cabinets, shielding, and electronics that will be installed along the plant route, the power sources that will be used and a description of the noise, exhaust, and pollutants, if any, that will be generated by the operation of the same. Notwithstanding these requirements, if some of the descriptive data is not available at the time of application, a Franchise may be granted subject to conditions that the data be filed and approved by the City before construction begins and that the Franchise will be deemed to be forfeited if the data is not supplied and approved. The application shall additionally state whether the applicant proposes to provide Cable Services to the entire Franchise Area, and, if so, a proposed timetable for meeting that goal.

(b) If the applicant has or asserts existing authority to access the Public Right-of-Way in any of the initial or proposed service areas listed in subsection 16A.02.020.B.4(a) above, the applicant shall state the basis for such authority or asserted authority and attach the relevant agreements or other documentation of such authority.

(c) The applicant shall describe with particularity its planned residential Cable Services, including Basic Cable Services, other cable programming Service Tiers, and any additional pay-per-view, on-demand, or digital services; and the projected rates for each category or tier or service.

(d) The applicant shall describe with particularity its planned system technical design, performance characteristics, headend, access (and institutional network) facilities and equipment, upstream and downstream capacity and speed, provision for analog or digital services or packages, distribution of fiber, planned count of households per residential node, and any other information necessary to demonstrate that the applicant's technology will be deployed so as to be able to successfully offer Cable Services in the proposed locations.

(e) The applicant shall describe with particularity its planned non-residential Cable Services.

(f) The applicant shall describe its planned construction and extension or phase schedule, as applicable, including system extension plans or policy, describing when and where construction will begin, how it will proceed, and when it will be completed; and describe the current status of the applicant's existing or proposed arrangements, with area utilities, including pole attachments, vault, or conduit sharing agreements as applicable. Information shall include a designation of the portions of the system that will be placed above ground and the portions that will be placed underground, and the construction techniques that the Operator proposes to use in installing the system above ground and underground; and the expected effect on Public Rights-of-Way usage, including information on the ability of the Public Rights-of-Way to accommodate the proposed system, including, as appropriate given the system proposed, an estimate of the availability of space in conduits and an estimate of the cost of any necessary rearrangement of existing facilities. In addition, applicant shall provide a description, where appropriate, of how services will be converted from existing facilities to new facilities, and what will be done with existing facilities.

(g) The applicant shall describe its plan to ensure that the safety, functioning, and appearance of property and convenience and safety of other persons not be adversely affected by installation or construction of the applicant's facilities, and that property owners are justly compensated for any damages caused by the installation, construction, operation, or removal of the facilities.

(h) The applicant shall describe its plan to comply with the Subscriber privacy protections set forth in 47 U.S.C. §551, and the privacy protections of any state or local statutes, ordinances, or regulations.

5. A demonstration of how the applicant will reasonably meet the future cable-related needs and interests of the community, as reasonably determined or established by the City.

6. A demonstration of the financial qualifications of the applicant, including at a minimum, a statement regarding the applicant's financial ability to complete the construction to meet the time frame proposed and to operate the Cable System proposed certified by the applicant's chief financial officer.

7. A demonstration of the applicant's technical ability to construct and/or operate the proposed Cable System.

8. A demonstration that the applicant is legally qualified, which proof must include a statement from the applicant:

(a) Whether it has received, or is in a position to receive, necessary authorizations from state and federal authorities;

(b) Whether it has not engaged in conduct (fraud, racketeering, violation of antitrust laws, consumer protection laws, or similar laws) that allows City to conclude the applicant cannot be relied upon to comply with requirements of Franchise, or provisions of this subtitle;

(c) Whether it or any Affiliate has been found in violation by a regulatory authority or franchising authority of any Franchise ordinance or agreement, contract or regulation governing a Cable System. If so, the applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal, and result or disposition of that proceeding;

(d) Whether it has been found in violation by a regulatory authority of any other type (e.g. utility) of Franchise, ordinance, agreement, permit, contract, or regulation. If so, the applicant shall identify the judicial or administrative proceeding, giving the date, name of tribunal, and result or disposition of that proceeding;

(e) Whether it is willing to enter into a Franchise, to pay required compensation, and to abide by the provisions of applicable law, including those relating to the construction, operation, or repair of its facilities, and has not entered into any agreement that would prevent it from doing so.

9. Declaration of applicant. Each application shall be accompanied by a declaration substantially in the form set forth below:

This application is submitted by the undersigned who has been duly authorized to make the representations within on behalf of the applicant and certifies the representations are true and correct.

The applicant recognizes that all representations are binding on it, that all application commitments are enforceable, and that material misrepresentations or omissions, or failure to adhere to any such representation may result in a denial of an application by the City.

The applicant shall comply with all applicable local laws.

Consent is hereby given to the City and its representatives to make inquiry into the legal, character, technical, financial, and other qualifications of the applicant by contacting any persons or organizations named herein as references, or by any other appropriate means.

“I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct”:

.....
(Date and Place) (Signature)

16A.02.030 New Franchise Application Fees.

A. Minimum deposit. Every application for a new Franchise shall be accompanied by an initial minimum deposit in the amount of \$5,000.00 or, in the discretion of the City Manager, such higher amount as may be necessary to cover the City’s costs in processing the application.

B. Publication expenses. In addition, an applicant that is awarded a Franchise, shall pay to the City a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of a Franchise, pursuant to the provisions of Subtitle 16A. Such payment shall be made by delivery of

payment to the City Treasurer within 30 days after the City furnishes the Franchisee with a written statement of such expenses.

C. Failure to remit fees. No Franchise shall become effective until all required fees and costs are paid.

16A.02.040 Open records/confidentiality.

Unless otherwise provided by law, information submitted as part of a Franchise application is open to public inspection and subject to the Washington Public Records Act (Chapter 42.56 RCW). It is the applicant's responsibility to be familiar with the Washington Public Records Act. An applicant may specifically identify any information it considers proprietary by providing said information to City in a separate envelope marked "Proprietary Information." In the event that: (A) the City receives a request from another party to disclose any information which the applicant has deemed proprietary, and if the City Attorney determines that said information may be subject to being disclosed; or (B) the City determines that the information should be disclosed in connection with its enforcement of any provision of this subtitle, or in the exercise of its police or regulatory powers, then the City shall notify the applicant of the applicant's opportunity to seek a protective order from a court with appropriate jurisdiction. In the event an action is not commenced within ten working days, the City may disclose said information. By submitting information which the applicant deems proprietary or otherwise exempt from disclosure, the applicant agrees to defend and hold harmless the City from any claim for disclosure, including, but not limited to, any expenses including out-of-pocket costs and attorneys' fees, as well as any judgment entered against the City for the attorney fees of the party requesting disclosure.

16A.02.050 Review process.

A. Acceptance of application. Within ten business days of receipt of an application for a new Franchise, the City shall review the application to ensure all requisite information is included in the application. If the application is not complete, the City will notify the applicant in writing, listing the requisite information that is required to complete the application. Such notification will also inform the applicant that the time period for granting or denying the application set forth in 47 C.F.R. § 76.41(d) will not begin to run until such information is received. If the application is complete, the City will notify the applicant in writing that all requisite information has been received.

B. Staff review. The City staff shall review all completed applications based on the review criteria set forth herein. If, during the review of an application, staff reasonably requires additional information from the applicant, staff will promptly request the information from the applicant, in writing. Such notification will also inform the applicant that the time period for granting or denying the application set

forth in 47 C.F.R. § 76.41(d) will be tolled until such information is received by the City. After completing the review, staff shall provide an analysis of the application to the City Council.

C. Franchise negotiations. Upon acceptance of a complete application, the City shall commence the process for negotiating a Franchise agreement with the applicant. Within the time period set forth in 47 C.F.R. § 76.41(d), the City shall attempt to negotiate a cable Franchise agreement with the applicant, and within that time period, schedule the application and any proposed Franchise for public hearing, as set forth in Section 16A.02.050 D.

D. Public hearing. The City shall hold a public hearing before acting on an application, affording participants a process substantially equivalent to that required by 47 U.S.C. §546(c)(2) governing renewal of cable Franchises.

E. Review criteria. The City may deny an application if, based on the information provided in the application, at the public hearing, and/or any terms of a proposed Franchise agreement: (1) the applicant does not have the financial, technical, or legal qualifications to provide Cable Service; (2) the applicant will not provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; or (3) the applicant's proposed terms do not comply with applicable federal, state, and local laws and regulations, including, but not limited to, local customer service standards, or relevant existing contractual obligations of the City.

F. Grant or denial of Franchise application. If the City finds that it is in the public interest to issue a Franchise considering the factors set forth above, the City may adopt a Franchise ordinance setting forth the terms and conditions of the Franchise, which Franchise shall become effective upon satisfaction of conditions precedent to effectiveness, and when signed and accepted by the applicant. If the City denies a Franchise, it will cause a written explanation of the denial to issue, which may be in any appropriate form. Without limiting its authority to deny an application for a Franchise, the City specifically reserves the rights to reject any application that is incomplete or fails to respond to a Request For Proposal. Nothing in this subtitle shall be construed in any way to limit the discretion and legislative authority of the City Council in making decisions relative to the granting, denial, or renewal of a Franchise.

16A.02.060 Procedure for cable Franchise renewals.

A. Renewal under Cable Act. To the extent required by federal law, requests for cable Franchise renewal under the Cable Act will be received and reviewed in a manner consistent with Section 626 of the Cable Act, 47 U.S.C. § 546.

B. Informal applications for renewal. Notwithstanding the provisions of Section 16A.02.020, a Cable Operator may submit a proposal for renewal of a

Franchise, pursuant to 47 U.S.C. § 546(h). Such a proposal may be submitted at any time and the City may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings have been commenced in accordance with 47 U.S.C. § 546(a)). An informal application for renewal may be denied for any reason.

16A.02.070 Applications for modification of Franchise.

A. An application for modification of a Franchise shall include, at minimum, the following information:

1. The specific modification requested;
2. The justification for the requested modification, including the impact of the requested modification on Subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through submission of pro forma financial statements or similar financial documentation, or other evidence of the impacts on Subscribers;
3. A statement indicating whether the modification is sought, pursuant to Section 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;
4. Any other information that the applicant believes is necessary for the City to make an informed determination on the application for modification; and
5. A declaration of the applicant or applicant's authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with the requirements of applicable law.

B. A request for modification submitted pursuant to 47 U.S.C. § 545 shall be considered in accordance with the requirements of that section.

C. Public hearings. An applicant shall be notified of any public hearings held in connection with the evaluation of its application and shall be given a reasonable opportunity to be heard. In addition, prior to the issuance of a Franchise, the City shall provide for the holding of a public hearing within the proposed Franchise Area, following notice to the public, at which each applicant and its application shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard.

Chapter 16A.03

ADDITIONAL RULES APPLICABLE TO CABLE SYSTEMS

Sections:

- 16A.03.010 No exclusivity.
- 16A.03.020 Construction provisions.
- 16A.03.030 Operation and reporting provisions.
- 16A.03.040 Consumer protection.
- 16A.03.050 Franchise fee.
- 16A.03.060 Transfers.
- 16A.03.070 Connections to Cable Systems; use of antennae.
- 16A.03.080 Discrimination prohibited.

16A.03.010 No exclusivity.

A Franchisee may not require a Subscriber or a building owner or manager to enter into an exclusive contract for the provision of Cable Service as a condition of providing or continuing service.

16A.03.020 Construction provisions and technical standards.

A. System construction schedule. Every Franchise shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the Cable System. The schedule shall provide for prompt completion of the project, considering the amount and type of construction required.

B. Use of Cable Operator's facilities. The City shall have the right to install and maintain, upon any poles owned by a Cable Operator in the City and utilized for Franchisee's cable operations, any wire and pole fixtures that do not unreasonably interfere with the Cable System or other operations of the Franchisee; provided, that the Franchisee may charge the City a fair market rate for the use of such poles. Each Cable Operator shall notify the City when and with whom it enters into an agreement for use of its poles and conduits in the City.

C. Provision of service/quality of service. In addition to satisfying such requirements, as may be established in a Franchise, every Cable Operator shall operate its Cable System subject to the following conditions, except as prohibited by federal law:

1. It is the policy of the City to ensure that every Cable System provide service in the Franchise Area, upon request, to any person or any government

building to the extent permitted by applicable law. The City retains the discretion to evaluate any Franchise proposal, and impose construction and service availability requirements in a Franchise in order to meet the needs of the community, so long as consistent with applicable law.

2. A Cable Operator must extend service to any person or to any government building which requests it in the City or (if smaller) its Franchise Area within seven days of the request, where service can be provided by activating or installing a drop within 125 feet of the structure to receive service. In cases where a potential Subscriber's structure is more than 125 feet from a Franchisee's existing cable plant, a Franchisee must still provide service, so long as the potential Subscriber agrees to bear a share of extension or installation costs, equal to the Franchisee's incremental cost of an extension that exceeds the 125-foot limit. A Franchisee that requires a potential Subscriber to bear a portion of installation or extension costs must prepare a written estimate of extension costs within seven days of a request for an installation or extension that would be subject to cost sharing.

3. A Cable System within the City shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601–640, as amended, and all other lawful and applicable technical standards.

4. A Cable Operator shall perform all tests necessary to demonstrate compliance with the requirements of its Franchise and other lawful technical standards. Unless a Franchise or applicable law provides otherwise, all tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of the Society of Cable Telecommunications Engineers (SCTE) Recommended Practices; specifically, its Recommended Practices for Fiber Optic Cable Construction and Testing and its Recommended Practices for Coaxial Cable Construction and Testing, or such other manual as may be directed under FCC regulations. A written report of any test results shall be filed with the City within seven days of a request by the City. If a location fails to meet technical or performance specifications, the Operator, without requirement of additional notice or request from City, shall promptly take corrective action, and retest the locations.

D. System maintenance and technical quality. Scheduled maintenance shall be performed so as to minimize the effect of any necessary interruptions of Cable Service and a Cable Operator shall maintain all transmission equipment as necessary to carry a quality signal from the access facilities provided under this section or any Franchise to Subscribers. A Cable Operator shall maintain all access channels, interconnects, and return lines at the same or better level of technical quality and reliability required by a Franchise and all other applicable laws, rules, and regulations for other channels, services, and interconnects.

E. Emergency alert capability. A Cable Operator shall provide an Emergency Alert System (“EAS”) and comply with all applicable federal, state, and regional emergency alert and notification statutes, regulations, and plans, and any other requirements that may be contained within a cable Franchise. The City may use the EAS, under procedures established between the City and the Cable Operator, which are consistent with a Cable Operator’s state and federal EAS requirements, to transmit an emergency alert signal, including the ability to override the audio and video on all channels throughout the City from the City’s Emergency Operations Center or other location as may be designated by the City. A Cable Operator shall test the EAS, as required by the FCC. Upon request, the City shall be permitted to participate in and/or witness the EAS testing, up to twice a year, on a schedule formed in consultation with a Cable Operator. If the test indicates that the EAS is not performing properly, a Cable Operator shall make any necessary adjustment to the EAS, and the EAS shall be retested. The City shall permit only appropriately trained and authorized persons to operate the EAS equipment provided, pursuant to this subsection.

F. Continuity of service. Each Franchisee shall, during the term of the Franchise, ensure that Subscribers are able to receive continuous service. In the event the Franchise is revoked or terminated, the Franchisee may be required to continue to provide service for a reasonable period to assure an orderly transition of service from the Franchisee to another entity. A Franchise may establish more particular requirements under which these obligations will be satisfied.

16A.03.030 Operation and reporting provisions.

A. Communication with regulatory agencies. If requested by the City, a Cable Operator shall file with the City all reports required by the FCC including, without limitation, any proof of performance tests and results; Equal Employment Opportunity (“EEO”) reports; and all petitions, applications, and communications of all types directly related to the Cable System, or a group of Cable Systems of which the Cable Operator’s Cable System in the City is a part, submitted or received by the Cable Operator, an Affiliate, or any other Person on the behalf of the Operator, either to or from the FCC, the Security and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction over any matter affecting operation of the Cable System; provided, that nothing herein requires a Franchisee to produce regulatory or court filings that are treated by the agency or court as confidential, such as Hart-Scott-Rodino Act filings. If any such documents are available on line, in lieu of filing hard copies with the City, the Cable Operator may direct the City to the on-line location of the information. Nothing in this Section 16A.03.030.A affects any rights the City may have to obtain books and records under Chapter 16A.01.

B. Reports.

1. Within 45 days of the end of each calendar quarter, a Cable Operator shall submit a report to the City containing the following information:

(a) The number of service calls (calls requiring a truck roll), received by type, during the prior quarter; and

(b) The number and type of outages known by the Operator for the prior quarter affecting more than ten Subscribers specifying the following: the duration; the geographical area; the number of Subscribers affected; and, if known, the cause.

2. No later than 120 days after the end of its fiscal year, a Cable Operator shall submit a written report that shall contain such information as may be required from time to time by the City, and at least the following, unless the City waives the requirement:

(a) A summary of the previous year's activities in the development of the Cable System, including descriptions of services begun or discontinued and the number of Subscribers gained or lost for each category of Cable Service;

(b) A summary of complaints for which records are required under Section 16A.03.030.C.1, identifying both the number and nature of the complaints received and an explanation of their dispositions;

(c) A fully audited or certified revenue report from the previous calendar year for the Cable System;

(d) An ownership report, indicating all Persons who, at the time of filing, control or own an interest in the Cable Operator of 10 percent or more;

(e) A list of officers and members of the Board of Directors of the Franchisee and any Affiliates directly involved in the operation or the maintenance of the Cable System;

(f) An organizational chart showing all corporations or partnerships with more than a 10 percent interest ownership in the Cable Operator, and the nature of that ownership interest (limited partner, general partner, preferred shareholder, etc.); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified, and so on, until the ultimate corporate and partnership interests are identified;

(g) An annual report of each entity identified in Section 16A.03.030.B.2(f), which issues an annual report;

(h) A complete report on its plant, which shall state the physical miles of plant construction and plant in operation during the prior calendar year categorized as aerial and underground, identify any cases where Subscribers contributed to plant extension, and report the results of appropriate electronic measurements to show conformity with FCC technical standards;

(i) A report showing, for each cable customer service standard in force, the Cable Operator's performance with respect to that standard for each quarter of the preceding year. In each case where Cable Operator concludes it did not comply fully, the Cable Operator will describe the corrective actions it is taking to assure future compliance; and

(j) Once the information required by Sections 16A.03.030.B.2(d)-(e) has been filed, it need be refiled only if it changes.

C. Records required. A Cable Operator shall at all times maintain:

1. Records of all complaints received with information sufficient to allow the Operator to prepare the reports required in this Section 16A.03.030. The term "complaints" as used herein and throughout this ordinance refers to complaints about any aspect of the Cable System or Franchisee's operations, including, without limitation, complaints requiring service calls, and complaints about employee courtesy, billing, prices, programming, outages and signal quality;

2. Records of outages known to the Cable Operator, with information sufficient to allow a Franchisee to prepare the reports required in this Section 16A.03.030;

3. Records of service calls for repair and maintenance indicating the date and time service was requested; the date of acknowledgment; date and time service was scheduled, if it was scheduled; the date and time service was provided; and, if different, the date and time the problem was solved; and

4. Records of installation/reconnection and requests for service extension, indicating date of request, date of acknowledgment, and the date and time service was extended.

16A.03.040 Consumer protection.

A. Rate discrimination prohibited. Except to the extent the City may not enforce such a requirement, a Cable Operator is prohibited from discriminating in its rates or charges or from granting undue preferences to any Subscriber, potential

Subscriber, or group of Subscribers or potential Subscribers; provided, however, that a Franchisee may offer temporary, bona fide promotional discounts in order to attract or maintain Subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of Subscribers throughout the Franchise Area. A Franchisee may offer discounts for the elderly, the disabled, or the economically disadvantaged, and such other discounts as it is expressly entitled to provide under federal law, if such discounts are applied in a uniform and consistent manner. A Cable Operator shall comply at all times with all applicable federal, state, and City laws, and all executive and administrative orders relating to non-discrimination.

B. Redlining prohibited. A Cable System Operator shall not deny access or charge different rates to any group of Subscribers or potential Subscribers because of the income of the residents of the local area in which such group resides.

C. Cable customer service standards. The City retains the continuing authority to enforce provisions of federally-adopted customer service standards in accordance with applicable law or to adopt local customer service standards, in its discretion.

16A.03.050 Franchise fee.

A Cable Operator shall pay to the City a Franchise fee in an amount equal to 5 percent of gross revenues, or such other amount as may be specified in the Franchise; provided, however, that if the Franchise specifies an amount, that amount shall be subject to increase or decrease should federal limits on fee payments be eliminated or changed.

16A.03.060 Transfers.

A. City approval required. No Transfer shall occur without prior written notice to and approval of the City Council. The granting of approval for a Transfer in one instance shall not render unnecessary approval of any subsequent Transfer.

B. Application.

1. The Franchisee shall promptly notify the City of any proposed Transfer involving a Cable System.

2. At least 120 calendar days prior to the contemplated effective date of a Transfer involving a Cable System, the Franchisee shall submit to the City an application for approval of the Transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the Transferee subject to applicable law, and on the potential impact of the Transfer on Subscriber rates and service. At a minimum, the following information must be included in the application, provided that, a Franchisee

is not required to duplicate information that it submits to the City to comply with its obligations under federal or state law:

(a) All information and forms required by FCC Form 394 and any other form that may be promulgated under federal law, or, the equivalent of such forms if no longer required by federal law or if Operator elects not to utilize such forms, any contracts or other documents that relate to the proposed transaction or other documents, schedules, or exhibits that would have been provided to the City under FCC form 394;

(b) Any shareholder reports or filings with the Securities and Exchange Commission (“SEC”) that discuss the transaction;

(c) Other information necessary to provide a complete and accurate understanding of the financial position of the Cable System before and after the proposed Transfer; and

(d) Complete information regarding any potential impact of the Transfer on Subscriber service.

3. For the purposes of determining whether it shall consent to a Transfer, the City, or its agents, may inquire into all qualifications of the prospective Transferee and such other matters subject to applicable law as the City may deem necessary to determine whether the Transfer is in the public interest and should be approved, denied, or conditioned as provided under Section 16A.03.060.C. The Franchisee and any prospective transferees shall assist the City in any such inquiry, and if they fail to do so, the request for Transfer may be denied.

C. Determination by City. In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer of a Franchise under this Section 16A.03.060.C, the City shall consider the legal, financial, and technical qualifications of the transferee to operate the Cable System; any potential impact of the Transfer on Subscriber services; whether the incumbent Cable Operator is in compliance with its Franchise and this subtitle and, if not, the proposed transferee’s commitment to cure such noncompliance; whether the transferee owns or controls any other Cable System in the City, and whether operation by the transferee may eliminate or reduce competition in the delivery of Cable Service in the City; and whether operation by the transferee or approval of the Transfer would adversely affect Subscribers, the public, or the City’s interest under this subtitle, the Franchise, or other applicable law.

D. Transferee’s agreement. No application for a Transfer of a Franchise, subject to this Section 16A.03.060, shall be granted unless the transferee agrees in writing that it will abide by and accept all lawful terms of this subtitle and the

Franchise, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Franchisee under this subtitle and the Franchise for all purposes, including renewal, unless the City, in its sole discretion, expressly waives this requirement in whole or in part.

E. Approval does not constitute waiver. Approval by the City of a Transfer of a Franchise, pursuant to this Section 16A.03.060, does not constitute a waiver or release of any of the rights of the City under this subtitle or a Franchise, whether arising before or after the date of the Transfer.

F. Exception for intra-company Transfers. Notwithstanding the foregoing, a Franchise may provide that Transfers to Affiliates of a Franchisee shall be excepted from the requirements of Section 16A.03.060.A-B where (1) the Affiliate is wholly-owned and managed by an entity that will guarantee the performance under a Franchise or provide other adequate assurance acceptable to the City; and (2) the transferee Affiliate:

1. Notifies the City of the Transfer at least 60 days before it occurs and, at that time provides the agreements and warranties required by this Section 16A.03.060, describes the nature of the Transfer, and submits complete information describing who will have direct and indirect ownership and control of the Cable System after the Transfer;

2. Warrants that it has read, accepts, and agrees to be bound by each and every term of the Franchise and related amendment, regulations, ordinances, and resolutions then in effect;

3. Agrees to assume all responsibility for all liabilities, acts, and omissions known and unknown, of its predecessor Franchisees for all purposes, including renewal;

4. Agrees that the Transfer shall not permit it to take any position or exercise any right which could not have been exercised by its predecessor Franchisees;

5. Warrants that the Transfer will not substantially increase the financial burdens upon or substantially diminish the financial resources available to the Franchisee (the warranty to be based on comparing the burdens upon and resources that will be available to the transferee compared to its predecessors), or otherwise adversely affect the ability of the Franchisee to perform;

6. Warrants that the Transfer will not in any way adversely affect the City or Subscribers (including by increasing rates);

7. Notifies the City that the Transfer is complete within five business days of the date the Transfer is complete; and

8. Agrees that the Transfer in no way affects any evaluation of its legal, financial, or technical qualifications that may occur under the Franchise or applicable law after the Transfer, and does not directly or indirectly authorize any additional Transfers.

16A.03.070 Connections to Cable System; use of antennae.

A. Subscriber right to attach. To the extent consistent with federal law, Subscribers shall have the right to attach DVRs, receivers, and other terminal equipment to a Franchisee's Cable System. Subscribers also shall have the right to use their own remote control devices and converters, and other similar equipment.

B. Removal of existing antennae. A Franchisee shall not, as a condition of providing service, require a Subscriber or potential Subscriber to remove any existing antenna, or disconnect an antenna except at the express direction of the Subscriber or potential Subscriber, or prohibit installation of a new antenna, provided that such antenna is connected with an appropriate device and complies with applicable law.

16A.03.080 Discrimination prohibited.

A. A Cable Operator shall not discriminate among persons or the City or take any retaliatory action against a person or the City because of that entity's exercise of any right it may have under federal, state, or local law, nor may the Operator require a person or the City to waive such rights as a condition of taking service.

B. A Cable Operator shall not refuse to employ, discharge from employment, or discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, color, creed, national origin, sex, age, disability, religion, ethnic background, or marital status. A Cable Operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, as the same may be from time to time amended.

Chapter 16A.04

MISCELLANEOUS

Sections:

- 16A.04.010 Captions.
- 16A.04.020 Calculation of time.
- 16A.04.030 Severability.

16A.04.010 Captions.

The captions to sections throughout this subtitle are intended solely to facilitate reading and reference to the sections and provisions of this subtitle. Such captions shall not affect the meaning or interpretation of this subtitle.

16A.04.020 Calculation of time.

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this subtitle or any Franchise, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

16A.04.030 Severability.

If any term, condition, or provision of this subtitle shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding on the Franchisee and the City.

ORDINANCE NO. 27790

AN ORDINANCE relating to sidewalk improvement; ordering the reconstruction or replacement of sidewalks and other appurtenances and works necessary thereto for various addresses; and directing the levy of special assessments according to the benefits upon the respective abutting properties.

WHEREAS, on August 26, 2008, the City Council adopted Resolution No. 37577, authorizing the Department of Public Works ("Department") to initiate proceedings as to various properties specified therein for the abatement of sidewalks deemed by the City Engineer to be unfit or unsafe, and

WHEREAS, pursuant to the requirements of chapter 35.69 RCW, the owners of each of the specified properties were notified of the City Council's adoption of Resolution No. 37577 and that their failure to begin the sidewalk replacements would result in the presentation of an assessment roll to the City Council to authorize the Department to perform the necessary sidewalk replacement work, with the costs of such work to be assessed against their properties, and

WHEREAS the owners of the properties identified in Resolution No. 37577 were duly notified of a public hearing scheduled for September 25, 2008, which hearing was scheduled for the presentation of any and all protests against the notification and proposed assessment, and

WHEREAS said public hearing was held before the Hearing Examiner for the City of Tacoma on September 25, 2008, and the Hearing Examiner has reported his findings, conclusions, and recommendation to the City Council that the City proceed with the replacement of the sidewalks identified in Resolution No. 37577 and not voluntarily replaced by the property owner, and that the preliminary

assessment and assessment roll as set forth in Exhibit "A," attached hereto, be confirmed; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the improvements hereinafter described are hereby ordered by the City of Tacoma and the costs thereof shall be borne and assessed against the abutting property in the proportion that the cost of each separate improvement bears to the respective abutting property, all as set forth in Exhibit "A," attached hereto and incorporated herein as though fully set forth.

Section 2. That the special assessments shall be assessed against and levied upon the respective lots, tracts, and parcels of land described in Exhibit "A" in an amount equal to the cost of each separate improvement to the property on which it abuts, and no property shall be assessed or liable for the cost of any other improvement included herein. Payment of assessments levied for improvements ordered herein shall become due and payable 30 days after the assessment roll is affirmed or modified, and thereafter shall bear interest upon the unpaid installments at a rate equal to the rate of interest which would be charged to the City on the basis of the Municipal Bond markets if the City chose to obtain long-term financing for these improvements. Assessments for each improvement shall be payable as follows:

The total for all assessments shall be paid in cash within 30 days after the assessment roll is affirmed or modified, or, at the option of the owner, one-fifth shall be paid within 30 days after the assessment roll is affirmed or modified and the balance in four equal installments payable at intervals of one year each thereafter,

provided that if any installment shall become delinquent, the entire balance of such assessment shall immediately become delinquent.

The assessment roll, as affirmed or modified by the City Council, shall be filed with the City Treasurer for collection, and the amount thereof, including interest, if any, shall become a lien against the abutting property described therein for such improvement from the date of such filing. Whenever any such assessment or installment is delinquent or unpaid for a period of 30 days or more, the lien may be foreclosed in the same manner and with the same effect as provided in chapters 35.43 to 35.54 RCW.

Section 3. That the Board of Contracts and Awards is hereby ordered to call for bids for the hereinabove-stated improvements in the manner provided by the Tacoma City Charter and ordinances of the City of Tacoma, and the Director of Public Works is hereby ordered to proceed with said improvements and, after a contract is awarded therefor, to make out and certify to the City Council an assessment roll charging the cost and expense of said improvements against said lots, tracts, and parcels of land specifically assessed, as provided herein.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
1.	3535000100	RAFAEL A & BULINDA J LOPEZ 3595 A ST TACOMA WA 98418-7903	3595 A ST	DORIS L 18 & 19 B 1	3,185.00		168,600	84,300
2.	7605000100	CHARLES H STEWART 3596 A ST TACOMA WA 98418-7902	3596 A ST	SHUTT R D ADD L 19 & 20 B 1	497.50		152,100	76,050
3.	7470021480	LILIA R SIBAYAN-RATHBURN 3606 A ST TACOMA WA 98418-7904	3606 A ST	1ST SCHOOL LD ADD B 71 BEG 60 FT S NE COR W 120 FT S 50 FT E 120 FT N 50 FT TO BEG NW 16 20 03	1,985.00		183,500	91,750
4.	7470021560	G JOHN & LAULIE L BROOKS 3624 A ST TACOMA WA 98418-7904	3624 A ST	1ST SCHOOL LD ADD B 71 N 50 FT OF S 257.68 FT OF E 120 FT NW 16 20 3	2,997.50		161,800	80,900
5.	5245000240	DENNIS J FISHER 3827 A ST TACOMA WA 98418-7816	3827 A ST	LIBERTY L 13 & 14 B 2	1,935.00		180,600	90,300
6.	7470021903	JON K & SUSAN C GROTE 3844 A ST TACOMA WA 98418-7815	3844 A ST	1 ST SCHOOL LD ADD SW OF NW 16-20-03E N 75 FT OF S 150 FT OF E 134.725 FT BLK 73 COMB OF 190-1 & 190-2 APPROX 10,104 SQ FT SEG Z- 0299 BL RJ	4,435.00		199,300	99,650
7.	747002060	CARL W & MARY F ANDERSON 4035 A ST TACOMA WA 98418-7818	4035 A ST	1ST SCHOOL LD ADD B 66 N 37 1/2 FT OF S 410.54 FT OF W 154.76 FT SE 16 20 3 ITEM 21	685.00		171,500	85,750
8.	4715016570	PETERU & RITA P MAEFAU 5656 S PARK AVE TACOMA WA 98408	2220 E 34TH ST	INDIAN ADD L 10 & 11 B 8458	1,247.50		211,900	105,950

EXHIBIT "A"

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
9.	2085160040	LEE K & DENA M JADERLUND 118 E 35TH ST TACOMA WA 98404-1505	118 E 35TH ST	TACOMA LD COS 1ST L 9 & 10 B 8516	1,747.50		185,100	92,550
10.	2085250030	TOMAS M GARCIA 615 E 35TH ST TACOMA WA 98404-2123	615 E 35TH ST	TACOMA LAND COS 1ST L 8 & W 2 1/2 FT OF 9 B 8525	1,747.50		138,200	69,100
11.	7470020890	JOSEPH E & LISA A HUNT 106 E 43RD ST TACOMA WA 98404-1412	106 E 43RD ST	1ST SCHOOL LD ADD B 67 N 132.197 FT OF W 165.526 FT SE 16 20 3 ITEM 12	3,372.50		238,200	119,100
12.	7470015430	ROBERT T III & JENNIFER D JAMISON 207 E 43RD ST TACOMA WA 98404-1414	207 E 43RD ST	1ST SCHOOL LD ADD B 58 E 72.123 FT OF S 100 FT OF THE W 152.123 FT LESS ALLEY SE 16 20 3 ITEM 33	560.00		181,900	90,950
13.	7470020861	ROGER A & LINDA A CARLSON 109 E 45TH ST TACOMA WA 98404-1426	109 E 45TH ST	1ST SCHOOL LD ADD B 67 E 47.5 FT OF W 125 FT OF S 132.19 FT SE 16 20 03 ITEM 9 SEG G 0755	1,747.50		161,500	80,750
14.	0320338005	TASI & AKENESE SUE 9212 E B ST TACOMA WA 98445-2130	9212 E B ST	33-20-03E&8/005 LOT 1 OF SH PLAT 78-82 AKA SH PLAT 77- 806 OUT OF 4-114 SEG L-0373 TP JW (DCWJEMS5-24-82)	2,122.50		292,200	146,100
15.	7470015580	RICHARD J STEIN & CHERYL E DEGROOT 4532 E C ST TACOMA WA 98404	4532 E C ST	1ST SCHOOL LD ADD B 60 BEG 125 FT N OF SE COR W 151 FT N 50 FT E 151 FT TH S 50 FT TO BEG SE 16 20 3 ITEM 17	2,897.50		201,900	100,950
16.	7470014490	GERALD R & SANDRA M LADSON 4535 E C ST TACOMA WA 98404-1446	4535 E C ST	1ST SCHOOL LD ADD B 53 N 50 FT OF S 100 FT OF W 142.12 FT SE 16 20 3 ITEM 7	1,747.50		210,500	105,250
17.	9515000310	SUSAN K TOFFLEMIRE PO BOX 27 TACOMA WA 98401-0027	5802 E I ST	WHITE & OUIMETTES N 1/2 OF L 13 THRU 16 EXC W 3 FT OF L 13 B 5	2,685.00		152,900	76,450

EXHIBIT "A"

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
18.	5670200241	GARY T & SANDRA L BERNSTEN 1805 W STEWART PUYALLUP WA 98371-5143	3805 E J ST	MCKINLEY PARK 2ND ADD L 3 & 4 B 43 ALSO L 3 & 4 B 30 MCKINLEY PARK ADDT NW 15-20-03E OUT OF 567000- 307-0 & 567020-024-0 SEG L- 0199DL JW DC5654LK2/19/92BO	1,685.00		110,400	55,200
19.	7470100010	WILLIAM J & CHRISTINE STAPISH 4018 MCKINLEY AV TACOMA WA 98404-2942	4018 MCKINLEY AV	1ST SCHOOL LANDS REPLT BLK 5 L 9 & 10	1,435.00		155,800	77,900
20.	3620000030	EUGENIA A BANNON-BERG 4610 MCKINLEY AV TACOMA WA 98408	4610 MCKINLEY AV	EDGARS L 5 THRU 7 B 1	1,585.00		174,500	87,250
21.	2087210060	JENNIFER J SUNDHEIM 423 E MORTON ST TACOMA WA 98404-1548	423 E MORTON ST	TACOMA LD COS 1ST L 11 & 12 B 8721	4,435.00		184,800	92,400
22.	4715017240	C E GLASS 3502 E T ST TACOMA WA 98404	3502 E T ST	INDIAN ADD L 27 & 28 B 8550	5,827.50		176,600	88,300
23.	2083210030	YOUNG H CHOE 411 E WRIGHT AVE TACOMA WA 98404-1640	411 E WRIGHT AV	TACOMA LD COS 1ST E 1/2 OF L 5, L 6 B 8321	1,310.00		122,500	61,250
24.	2086130010	WILLIAM B & HELEN L DICKSON 3711 N 37TH ST TACOMA WA 98407-6115	3500 PACIFIC AV	TACOMA LD COS 1ST L 1 THRU 3 B 8613	3,185.00		92,800	46,400
25.	2032190060	NORTH 2ND STREET PROPERTIES LLC 917 N 2ND ST UNIT D TACOMA WA 98403-3909	917 N 2ND ST	NEW TACOMA N 70 FT OF E 60 FT OF L 10 THRU 12 B 3219 INC ALLEY VAC	4,878.75		391,400	195,700
26.	4415000010	TWYLA WENTWORTH 2402 N 8TH ST TACOMA WA 98406-7706	2402 N 8TH ST	HAWKINS E 40 FT OF L 1 THRU 3 B 1 ITEM 1	810.00		260,000	130,000

EXHIBIT "A"

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
27.	2040210080	MARK S & SUSAN L MILLER 1017 N 10TH ST TACOMA WA 98403-1815	1017 N 10TH ST	NEW TACOMA N 40 FT OF SLY 80 FT OF L 10 THRU 12 B 4021 ITEM 3	1,310.00		321,300	160,650
28.	7475035400	DANIEL C & KATHLEEN L MILLER 4801 N 10TH ST TACOMA WA 98406-3101	4801 N 10TH ST	2ND SCHOOL LD ADD B 213 E 50 FT OF S 120 FT SW 36 21 2 ITEM 3	1,435.00		279,600	139,800
29.	7475022680	ELISE L WOOD 4402 N 19TH ST TACOMA WA 98406-3814	4402 N 19TH ST	2ND SCHOOL LD ADD B 111 E 50 FT OF N 1/2 NW 36 21 2 ITEM 4	3,310.00		245,300	122,650
30.	7475016400	MANUEL & EDITH POSADAS 4001 N 22ND ST TACOMA WA 98406-4802	4001 N 22ND ST	2ND SCHOOL LD ADD B 70 S 120 FT OF E 123.96 FT NE 36 21 2 ITEM 10	6,247.50		437,200	218,600
31.	8945002400	MARK K & AGNES G JENSEN 3110 N 31ST ST TACOMA WA 98407-6411	3110 N 31ST ST	TACOMA SUPPLEMENTARY MAP OF L 3 B 66	1,515.00		527,300	263,650
32.	6705001510	JEREMY MORRIS & KATHERINE L TAYLOR 4009 N 34TH ST TACOMA WA 98407-5510	4009 N 34TH ST	PARK & BOULEVARD L 5 & 6 B 502 SUBJ TO EASE	1,622.50		253,900	126,950
33.	5205000720	JUDITH L FREDERICK 3519 N ADAMS ST TACOMA WA 98407-6124	3519 N ADAMS ST	LAWS L 6 B 8	4,372.50		480,700	240,350
34.	2036310020	STREET M FLETCHER & C I ALBERTS 623 N AINSWORTH AVE TACOMA WA 98403-1121	623 N AINSWOR TH AV	NEW TACOMA SLY 80 FT OF WLY 55 FT OF L 1 THRU 3 B 3631	4,016.25		313,900	156,950
35.	2745004400	LEAH STOCKTON 1115 N ANDERSON ST TACOMA WA 98406-6815	1115 N ANDERSO N ST	BUCKLEYS ADD TO TACOMA L 23 & S 1/2 OF 24 B 30	816.25		275,000	137,500

EXHIBIT "A"

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
36.	7475021230	MATTHEW D & STACY J RODY 1917 N CHEYENNE ST TACOMA WA 98406-3927	1917 N CHEYENN E ST	2ND SCHOOL LD ADD B 95 N 65 FT OF W 120 FT NW 36 21 2 ITEM 8	4,685.00		284,700	142,350
37.	2035100030	CHARLES W & LISA R CLARK 512 N E ST TACOMA WA 98403-2735	512 N E ST	NEW TACOMA L 7 & 8 B 3510 INC PART ALLEY VAC	3,422.50		541,200	270,600
38.	2037210040	SHANNA RIFE-HANFT 719 N K ST TACOMA WA 98403-1718	719 N K ST	NEW TACOMA S 1/2 OF L 3 & 4 B 3721	3,910.00		280,900	140,450
39.	2036240050	JEANNE E RIGG 608 N L ST TACOMA WA 98403-1723	608 N L ST	NEW TACOMA L 9 & 10 B 3624 INC PART ALLEY VAC	2,872.50		229,600	114,800
40.	7475031210	MARLYS M DANIEL 1314 N PROCTOR ST TACOMA WA 98406-5118	1314 N PROCTOR ST	2ND SCHOOL LD ADD B 176 S 60 FT OF E 80 FT OF N 120 FT SE 36 21 2 ITEM 10	2,122.50		288,300	144,150
41.	2745001830	RICHARDO ARREDONDO 1224 N PROSPECT ST TACOMA WA 98406-8004	1224 N PROSPEC T ST	BUCKLEYS ADD TO TACOMA L 5 & N 9 FT OF 6 B 13	2,372.50		281,700	140,850
42.	9490300040	FREDERICK A MORLEY JR 2101 N SHIRLEY ST TACOMA WA 98406-2917	2101 N SHIRLEY ST	WESTGATE 3RD ADD L 4 B 1	497.50		267,500	133,750
43.	6280000020	THOMAS L BIRD 2601 N SHIRLEY ST TACOMA WA 98407-3323	2601 N SHIRLEY ST	NELSONS 1ST S 52 FT OF L 1 B 1	765.00		259,000	129,500
44.	7280000480	MELINDA D YORK 625 N STEELE ST TACOMA WA 98406-7711	625 N STEELE ST	ROSS ADD S 1/2 OF L 10, L 11 B 4	2,265.00		214,000	107,000
45.	5205000070	JEFFREY J & CHRISTINE L PICKERING 3511 N WASHINGTON ST TACOMA WA 98407-6146	3511 N WASHING TON ST	LAWS L 8 B 1	765.00		662,100	331,050

EXHIBIT "A"

ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

Assmt. No.	Parcel No.	Taxpayer Name Mailing Address	Site Address	Legal Description	Est. Assmt.	Final Assmt.	Assessed Value	1/2 Assessed Value
46.	2038160010	THOMAS J SKRINAR 824 N YAKIMA AVE TACOMA WA 98403-2422	824 N YAKIMA AV	NEW TACOMA NLY 95 FT OF L 1 & 2 B 3816	4,135.00		584,600	292,300
47.	4130001540	CHRISTOPHER MACK JR 3814 S 8TH ST TACOMA WA 98405-2112	3814 S 8TH ST	GLENDALE ADD L 7 & 8 B 16	3,265.00		215,300	107,650
48.	0320064080	MELISSA LOVEJOY 2318 S 12TH ST TACOMA WA 98405-3028	2318 S 12TH ST	BEG 33 FT S & 95 FT E OF NW COR NE OF SE TH S 119.3 FT E 50 FT N 119.5 FT TO S LI S 12TH ST TH W 50 FT TO BEG	997.50		119,800	59,900
49.	2080090040	SHAUN M BERRY & KARI S KENDALL-BERRY 309 S 30TH ST TACOMA WA 98402-2708	309 S 30TH ST	TACOMA LD COS 1ST L 7 & 8 B 8009	3,935.00		203,400	101,700
50.	2080080030	SHAWN J & CHERYL L MANLEY 12404 130TH AVENUE CT E PUYALLUP WA 98374-4403	412 S 30TH ST	TACOMA LD COS 1ST L 7 & 8 B 8008 EXC 139 SQ FT M/L TAKEN FOR STATE HWY INCL POR VAC ALLEY ABUTT	3,935.00		190,200	95,100
51.	8935014570	JOYCE M ANGELINE 502 E 32ND ST TACOMA WA 98404-1612	1712 TO 1716 S 36TH ST	TAC LAND CO 6TH L 1 & 2 B 8639	5,747.50		183,200	91,600
52.	8935016280	BARRY & DEBBIE BECK 1402 S 37TH ST TACOMA WA 98418-3937	1402 S 37TH ST	TAC LAND CO 6TH E 95 FT OF L 1, L 2 B 8730 EXC ALLEY DC 11/5/98 MA	5,560.00		205,200	102,600
53.	7470021920	CHRISTOPHER C MUECKE 111 S 40TH ST TACOMA WA 98418-7810	111 S 40TH ST	1ST SCHOOL LD ADD B 73 W 50 FT OF THE E 150 FT OF W 430 FT OF S 200 FT NW 16 20 3	1,810.00		189,500	94,750
54.	6440000940	JOHN M OLSON 1526 S 41ST ST TACOMA WA 98418-2514	1526 S 41ST ST	OAKES ADD L 13 & E 1/2 OF 14 B 14 LESS S 10 FT ST	2,140.00		208,000	104,000

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ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

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55.	6440000530	RUSSELL W & E CLARK 7643 S OAKES ST TACOMA WA 98409-9014	1721 S 41ST ST	OAKES ADD L 9 THRU 11 B 9	4,947.50		178,000	89,000
56.	8935023940	MICHAEL S DEROUEN 859 S 43RD ST TACOMA WA 98418-4964	859 S 43RD ST	TAC LAND CO 6TH W 55 FT OF S 1/2 OF L 18 & W 55 FT OF 19 & 20 B 9120	1,122.50		171,700	85,850
58.	64400005089	DINAH S SACAY & LEONISITA M ANDALES 1775 S 47TH ST TACOMA WA 98408-1537	1775 S 47TH ST	OAKES ADD L 12 THRU 14 B 8	1,310.00		196,500	98,250
59.	5115001460	GLEN BRUSER TTEE 1719 GLEN UNA AVE SAN JOSE CA 95125-2529	715 S 51ST ST	LAKESIDE L 9 & 10 B 18	3,560.00		147,400	73,700
60.	5620000630	RONALD C & COLLEEN NORDLUND 240 S 52ND ST TACOMA WA 98408-6505	240 S 52ND ST	MCCLOSKEY W 12.5 FT OF L 15, L 16 B 12	3,435.00		189,200	94,600
61.	5115001840	LEON F HORYST SR 3105 S 47TH ST APT 50 TACOMA WA 98409-5537	511 S 52ND ST	LAKESIDE L 10 & W 1/2 OF 11 B 23	1,310.00		188,900	94,450
62.	6690001100	SHANNON M & KRISTINE M MATTHEWS 528 S 59TH ST TACOMA WA 98408-6441	528 S 59TH ST	PARK AVENUE L 3 & 4 B 19	1,122.50		167,800	83,900
63.	2415000290	TERRY R & KIMBERLY A WILMER 4016 S BELL ST TACOMA WA 98418-7819	4016 S BELL ST	BELL-MEDER S 6 FT OF L 6, L 7 & 8 B 3	810.00		171,500	85,750
64.	7470022290	MURPH K MINER 4314 S BELL ST TACOMA WA 98418-7728	4314 S BELL ST	1ST SCHOOL LD ADD B 75 S 40 FT OF N 170 FT OF W 115 FT OF E 441.72 FT SW 16 20 3 ITEM 24	810.00		163,300	81,650

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65.	9485001050	GABRIELLE & DUSTIN WILSON 5631 S BIRMINGHAM ST TACOMA WA 98409-5307	5631 S BIRMINGH AM ST	WESTBROOKS ADD L 16 & 17 B 10	1,122.50		140,000	70,000
66.	9210000580 & 6550000020	AJJB PROPERTIES LLC 610 N 1ST ST TACOMA WA 98403-2250	1015 CENTER ST	ORCHARDS ADD L 13 LY S OF RELOC 28TH ST, ALL OF L 14 THRU 16 & L 17 THRU 20 LESS S 20 FT COND FOR CENTER ST B 1 ALSO L 13 LY S OF RELOC 28TH ST, ALL OF L 14 THRU 16 & L 17 THRU 20 LESS S 20 FT COND FOR CENTER ST B 2 TOG/W VAC BOUNDARY ST & VAC K ST ABUTT E 6332	4,497.50		217,300	108,650
67.	8935011360	TONYA M VIRAMONTES & GONZALO BIRAMONTES 3508 S CUSHMAN AV TACOMA WA 98418-2631	3508 S CUSHMAN AV	TAC LAND CO 6TH L 3 THRU 5 B 8532	1,310.00		187,100	93,550
68.	4645252021	MARSE & BETH MCNAUGHTON PO BOX 99867 LAKEWOOD WA 98496-0867	5220 S CUSHMAN AVE	HOSMERS 2ND AMDY L 1, 2 & S 5 FT L 3 B 35 TOG/W S 58 FT L 6 B 35 SE OF NW 20-20- 03E APPROX 7250 SQ FT COMB 202-0 & 204-0 SEG W- 1171 HW ES	8,841.25		146,600	73,300
69.	7470025800	JON B & KENDA L BEAHM 12045 4TH AVE NW SEATTLE WA 98177-4518	3840 S D ST	1ST SCHOOL LD ADD B 89 N 50 FT OF S 236.6 FT OF E 140.123 FT NW 16 20 3 ITEM 20	2,078.75		210,200	105,100
70.	2006330040	KEVIN S BURCHATZ 611 S GRANT AV TACOMA WA 98405-3354	611 S GRANT AV	AINSWORTH ADD TO TACOMA W T L 6 & N 1/2 7 B 633 SUBJ TO CITY LIGHT EASE	2,660.00		157,100	78,550
71.	2021170060	THOMAS L & LOIS I WESTBROOK TTEE PO BOX 805 SPANAWAY WA 98387-0805	2115 S I ST	BARLOWS ADD L 6 NLY 17 FT OF 7 B 2117	1,122.50		163,000	81,500

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ASSESSMENT ROLL HAZARDOUS SIDEWALKS 2008

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72.	7785004460	DANIEL J & VALERIE A GAPSCH 5208 S I ST TACOMA WA 98408-3638	5208 S I ST	SOUTHSIDE ADD TO TACOMA S 1/2 OF L 3, L 4 & 5 B 4722	810.00		182,300	91,150
73.	8935024300	DANIELLE ARVISO & BARBARA BROWN 4102 S K ST TACOMA WA 98418-3828	4102 S K ST	TAC LAND CO 6TH E 70 FT OF L 1 & 2 B 9124	3,422.50		168,200	84,100
74.	8935024400	PATRICIA L KNAPP PO BOX 12067 TACOMA WA 98412-0067	4136 S K ST	TAC LAND CO 6TH L 18 & N 1/2 OF 19 B 9124	810.00		151,000	75,500
75.	8935025870	MICHELLE M SHADDAY 4319 S K ST TACOMA WA 98418-3704	4319 S K ST	TAC LAND CO 6TH S 1/2 OF L 9, L 10 B 9223	1,060.00		153,600	76,800
76.	7685006420	LLOYD G & EVANGELINA WILLIAMS 2541 S L ST TACOMA WA 98405-3420	2541 S L ST	SMITH & FIFE ADD L 19 & 20 B 51	1,935.00		181,600	90,800
77.	8935023100	DONALD E RITTER 4001 S L ST TACOMA WA 98418-3831	4001 S L ST	TAC LAND CO 6TH N 60 FT OF W 1/2 OF L 9 & N 60 FT OF 10 & 11 B 9024	4,260.00		92,700	46,350
78.	8935024510	MICHAELA C ST PIERRE 4129 S L ST TACOMA WA 98418-3833	4129 S L ST	TAC LAND CO 6TH L 15 & 16 B 9125	1,310.00		139,400	69,700
79.	8935016060	THERON N & PATRICIA J TISON 3702 S M ST TACOMA WA 98418	3702 S M ST	TAC LAND CO 6TH L 1 & 2 B 8728	6,372.50		260,100	130,050
80.	8935026330	KARL & VIRGINIA PETERSON 4329 S M ST TACOMA WA 98418-3708	4329 S M ST	TAC LAND CO 6TH L 15 & 16 B 9227	2,122.50		179,900	89,950

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81.	7785006770	JONG C & KAN N KIM 5403 S M ST TACOMA WA 98445	5403 S M ST	SOUTHSIDE ADD TO TACOMA L 1 THRU 3 B 4829	7,422.50		335,600	167,800
82.	4530200180	JEANNE C BOUTON 6444 S M ST TACOMA WA 98408-3201	6444 S M ST	HOKOLD 2ND S 13 FT OF L 15 & N 62 FT OF 16 B 1	747.50		216,200	108,100

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