INSTITUTIONAL NETWORK SERVICES AGREEMENT BETWEEN THE CITY OF TACOMA AND CLICK! NETWORK

Dated _____

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INSTITUTIONAL NETWORK SERVICES AGREEMENT

THIS INSTITUTIONAL NETWORK SERVICES AGREEMENT ("Agreement") is made and entered into this _____ Day of _____, 2009, by and between the City of Tacoma, a municipal corporation operating under the laws of the State of Washington (hereinafter "City"), and the City of Tacoma, Department of Public Utilities, Light Division, d.b.a. Click! Network (hereinafter "Click!"). As used herein, the terms "Party" or "Parties" shall refer to City and Click! individually or jointly as indicated by the context in which used.

WITNESSETH:

WHEREAS, Click! owns, operates, and maintains a communications and cable television system, as defined herein ("Communications Network"), in the City of Tacoma, and has entered into a franchise-like agreement ("Cable Agreement") with the City, pertaining to that Communications Network; and

WHEREAS, Click! has constructed and currently maintains and/or repairs as part of its Communications Network an institutional network connecting major community institutions like government buildings, schools and public safety buildings ("I-Net" as defined herein) and is comprised of (i) a fiber optical digital network ("Digital I-Net") and a hybrid fiber/coaxial network ("HFC I-Net"), both of which provide video, voice, and data transmission services for governmental agencies, schools, libraries, and other Qualified Users within and outside the City of Tacoma, and (ii) dark fiber connections ("Dark Fiber Connections") where requested; and

WHEREAS, the Cable Agreement grants the City an Indefeasible Right of Use of the I-Net and I-Net resources and directs that a separate agreement be established to specify the City's right to manage and operate the I-Net and Click!'s obligations to design, construct, provision, maintain and/or repair the infrastructure of the I-Net in support of identified City applications; and

WHEREAS, this Agreement is intended to specify the mutual obligations of the City and Click! with regard to the I-Net, including future construction, operation and maintenance, standards of reliability and response time for repair, technical network management, and status monitoring requirements.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties hereby mutually agree to the terms of this Institutional Network Services Agreement as follows:

ARTICLE 1. DEFINITIONS

1.1 The terms used in this Agreement shall have their normal or common meaning, unless otherwise specifically defined herein and except that the following terms shall have the following meanings for the purpose of this Agreement:

A. Acceptance or Accepted. As applied to the Digital I-Net, City will be deemed to have given its "Acceptance" or to have "Accepted" a Circuit on the earliest date of: (i) when testing pursuant to Article 3.0 of Exhibit 1 has been successfully completed; (ii) when City puts the Circuit into production service; (iii) five (5) Days past the scheduled due date for City to notify Click! of its Acceptance, if no such notice has been provided; (iv) or, in the event of an expedited order, the scheduled due date for City to notify Click! of its Acceptance if no such notice has been provided. As applied to the HFC I-Net, City will be deemed to have given its "Acceptance" or to have "Accepted" a Connection on the earliest date of: (i) when joint testing has been successfully completed; (ii) when City puts the Connection into service; (iii) five Days past the scheduled due date for City's notifying Click! of its Acceptance, if no such notice has been provided; (iv) or, in the event of an expedited order, the scheduled due date for City's notifying Click! of its Acceptance if no such notice has been provided.

B. Agreement. "Agreement" shall mean this I-Net Services Agreement, which covers the Digital I-Net, HFC I-Net and Dark Fiber Connections and includes all referenced and attached exhibits.

C. Circuit. "Circuit" shall mean the individual telecommunications facility included as part of the Digital I-Net Service.

D. Communications Network. "Communications Network" shall mean that network owned, operated, and maintained by Click!, consisting of redundant fiber optical backbones, redundant fiber optical service loops and coaxial cable distribution cables on which numerous applications are provided, which network includes, but is not limited to, Department of Public Utilities' two-way communications services, commercial retail cable television, wholesale Internet services, wholesale data transport services, and I-Net services.

E. Connection. "Connection" shall mean the individual point-to-point connection included as part of the HFC I-Net Service.

F. Dark Fiber Connection. "Dark Fiber Connection" shall mean an unlit fiber connection with no equipment attached or provisioning of services provided by Click!. Said Dark Fiber Connection may be lit by City or its designated Qualified I-Net Users.

G. Day. "Day" shall mean a calendar Day.

H. Demarcation Point. “Demarcation point” shall mean the patch panel, termination block or other termination device located within each I-Net site, at the point on that equipment closest to the service loops.

I. Demarcation Site. For the Digital I-Net, the “Demarcation Site” shall mean the Demarcation point or equivalent at the I-Net User’s facility. For the HFC I-Net, the “Demarcation Site” shall mean the premise side of an HFC I-Net location of the coaxial cable Ground Block connection at the main point of entry.

J. Digital I-Net. “Digital I-Net” shall mean the fiber optic digital network as defined in Section 2.2.A herein.

K. Direct Costs. “Direct Costs” shall be defined as set forth in Section 5.1.D herein.

L. Emergency Maintenance. “Emergency Maintenance” shall mean Maintenance that cannot be accomplished during scheduled maintenance windows. Emergency Maintenance may be required by Click! to avoid damage to the Communications Network or serious degradation or loss of service.

M. Ethernet Service. “Ethernet Service” shall mean a dedicated packet transport service, conforming to the physical and data transport layers of the international communications model. Ethernet Service may be provided in point-to-point or point-to-multi-point configuration. Ethernet Service bundles the transmission capacity of one to eight DS-1 services. The available bandwidth is set and tested per the requirements of the user.

N. Ground Block. For purposes of the HFC I-Net, “Ground Block” shall mean and refer to the equipment device located inside HFC I-Net User communications closet or outside User premises to bond HFC plant/electronics to a Tacoma Power neutral conductor, offering protection of User premises from outside interference and providing a test point to determine service quality on either side.

O. HFC I-Net and HFC. “HFC I-Net” shall mean and refer to the hybrid fiber coaxial cable network, as defined in Section 2.2.B herein, capable of providing transmission of voice, video and data. “HFC” shall mean and refer to hybrid fiber coaxial cable capable of delivering video, voice and data employing both fiber optic and coaxial cable.

P. HFC I-Net User. "HFC I-Net User" shall mean a qualified and designated user to whom City allows HFC I-Net Services to be connected and Provisioned via the HFC I-Net.

Q. I-Net. “I-Net” shall mean the institutional network infrastructure, consisting of the Digital I-Net, the HFC I-Net and Dark Fiber Connections, as contemplated under this Agreement.

R. I-Net User. "I-Net User" shall mean a qualified and designated user to whom City allows video, voice and data services to be connected and Provisioned via the I-Net and maintained under this Agreement. (See also Section 2.7.B regarding "Qualified Users.")

S. Indefeasible Right of Use or IRU. "Indefeasible Right of Use" or "IRU" is the exclusive, irrevocable and perpetual right to use the Institutional Network subject to the terms and conditions of this Agreement and the Cable Agreement.

T. Interface Equipment. "Interface Equipment" means any device or system capable of transmitting video, voice and/or data traffic to the I-Net or capable of receiving information from the I-Net.

U. Maintenance. "Maintenance" shall mean and refer to routine and ordinary testing and repair of the Digital I-Net and HFC I-Net.

V. Manage. "Manage" is defined as monitoring, administering, and/or controlling traffic on a network to enhance capabilities and efficiencies.

W. Master Control Center. "Master Control Center" is the central location for processing PEG programming, presently located at 1224 Martin Luther King, Jr. Way, at the Municipal Services Center.

X. NSA. "NSA" means the Click! Network Service Assurance representative.

Y. Network Interface. "Network Interface" shall mean the point within an I-Net User's premise at which Digital and HFC I-Net services are delivered to the I-Net User.

Z. PEG Channel. "PEG Channel" shall mean a television channel dedicated to public, education or government access programming.

AA. Planned Service Outage. "Planned Service Outage" shall mean any Service Outage caused by scheduled Maintenance or planned enhancements or upgrades to the Communications Network. For the Digital I-Net, such scheduled Maintenance, planned enhancements or upgrades are described in Exhibit 3.

BB. Premises. "Premises" shall mean the address to which Service is provided to the Demarcation Point at which Click!'s responsibility to provide equipment and Service ends and where City's or I-Net User responsibilities begin.

CC. Provision. "Provision" shall mean the act of establishing a Circuit on the Digital I-Net, including testing, software configuring, setting options, and establishing interfaces.

DD. Qualified I-Net User. “Qualified I-Net User” shall mean: (i) the users identified by address in Exhibit 9 to this Agreement; (ii) the City and its agencies, other governments and their agencies, schools, libraries and public corporations created by the City as may be identified from time to time by the City; and (iii) entities that Click! and the City mutually agree may use the I-Net.

EE. Service. "Service" shall mean Click!-provided consultation, design, construction, provisioning, testing and activation, monitoring, maintenance and repair relative to the I-Net, as agreed to by City and Click!.

FF. Service Outage. "Service Outage" shall mean a disruption or degradation of Service.

ARTICLE 2. OVERVIEW AND GENERAL OBLIGATIONS

2.1 INSTITUTIONAL NETWORK (I-NET) OVERVIEW

Click! has designed and constructed a Communications Network within the City of Tacoma and adjacent jurisdictions in Pierce County that includes, *inter alia*, a cable television system (“Cable System”) and an I-Net. The Communications Network consists of a backbone to hubs, service loops to nodes, and distribution networks (including drops) beyond the nodes (referred to below as the Click! rings, loops and distribution networks, as applicable). The I-Net is integrated with, or overlays, the Communications Network to provide the I-Net most cost effectively to the City, as more particularly described herein. As currently constructed and required by the City, the I-Net is capable of full bi-directional video, voice, and low- and high-speed data communications (including, by way of example and not limitation, closed circuit applications). The City has the right to, and is responsible for, determining the uses and users of the I-Net within the area served by the Communications Network, subject only to the limitations specified in this Agreement.

The City has the right to designate the locations to be connected to the I-Net and may itself, or through an entity it designates, Manage the use of the I-Net for the City; provided, that such entity shall not be a Person providing services in direct commercial competition with Click!. Except as otherwise expressly provided in this Agreement, the I-Net shall be for the exclusive use of the City and any Qualified I-Net Users designated by the City. In addition, the City is authorized to utilize the capacity provided in Section 2.3 herein for I-Net purposes.

Click! is responsible for the Maintenance of the infrastructure of the I-Net, except Dark Fiber Connections, as more specifically provided herein. The City shall pay the Direct Cost of the construction, equipment installation, and the Maintenance of the I-Net, as more fully described herein.

2.2 I-NET COMPONENTS

As used herein, the term “Digital I-Net” refers to the portion of the I-Net described in Section 2.2.A, and the term “HFC I-Net” refers to the portion of the I-Net described in Section 2.2.B. The term I-Net or Institutional Network refers to all parts of the I-Net, collectively, and includes the following components:

A. Digital I-Net. The Digital I-Net, shall consist of:

(i) Backbone. The backbone consists of three (3) separate buffer tubes of twelve (12) fibers each (36 total fibers) terminated or spliced as currently installed or as requested by the City. Other mutually-agreed upon options.

(ii) Service Loops. Service loops consist of: (1) Fiber (the precise number of which is identified in Exhibit 10); (2) service loops, terminated or spliced as agreed by the Parties, consisting of interface via a hub to the backbone; (3) service loops to I-Net nodes; and (4) I-Net fiber splice and termination equipment at the nodes or other appropriate splice points approved by Click!.

(iii) Distribution System and Drop Fibers. Distribution and drop fibers from the nodes to all designated I-Net user sites (currently installed or as directed by the City). For future installations, the City will provide the route and the access from the property line of the I-Net site into the facility.

(iv) Equipment. For future Synchronous Optical Network (SONET) installations and upon City’s request, user equipment selected by the City will be installed by Click!, at designated I-Net user sites. Click! shall not be obligated for any non-SONET installations. Any other equipment that is useful for the operation of the Digital I-Net will be selected and purchased by the City and installed at appropriate points on the Digital I-Net, as provided in Section 4.1 herein.

B. HFC I-Net. The HFC I-Net shall consist of:

(i) Fiber Backbone. Four (4) or more fibers in the separate buffer tube referenced in Section 2.2.A(i) (the precise number of which is identified in Exhibit 10) from each hub to the headend, or other mutually agreed upon location, spliced or terminated as currently installed or as directed by the City.

(ii) Service Loops. HFC I-Net service loops between the hubs and the neighborhood nodes consisting of at least one (1) fiber pair serving each node (the precise number of which is identified in Exhibit 10), paralleling and in the same sheath as Click!’s Service Loop; interfaces to the backbone; and I-Net fiber splice and termination equipment at the nodes.

(iii) Distribution System. Additional fiber or coaxial plant, as may be identified by the City to get to currently served or un-served I-Net locations from system nodes, along with such fiber node terminations, electronics, and user location terminations, as may be identified by the City.

(iv) HFC Electronics. Electronic devices on the HFC I-Net required to provide the activated HFC capacity that the City may request from time to time are co-located with residential cable nodes consistent with design(s) previously approved by the City. For future installations, I-Net electronics will be co-located with residential cable nodes if the design approved by the City so designates or where it is physically impossible to co-locate, the I-Net electronics would be located nearby.

C. Dark Fiber Connections. Unlit fiber connections from the Communications Network to sites designated by the City for City's provisioning of video, voice and data services.

2.3 CAPACITY EXCHANGE

A portion of the SONET capacity of the Communications Network backbone, including attendant capabilities such as system monitoring, remote configuration, and redundant capability, shall be available for use by the City for I-Net use. Click! may use the HFC I-Net (or such other portion of the I-Net as the City deems appropriate) for the transmission of PEG Programming from any location designated by Click! to the City's designated Master Control Center location.

This usage of the Click! backbone shall be provided by Click! to the City at no cost, and shall include a minimum use of OC-1 capacity throughout the term of this Agreement. Additional Click! SONET backbone usage, up to a total of OC-3 capacity, shall be provided to the City by Click! at no cost during the term of this Agreement upon request by the City; provided, however, that during any period when Click! has increased its own SONET business to the point where Click! has a bona fide need for the capacity being used by the City, Click! may, upon one hundred twenty (120) Days notice, reduce the City's capacity as needed, but such capacity may not be reduced below the OC-1 capacity. The City shall have the option to purchase SONET capacity beyond what is provided for in this section, at standard market rates. Click! shall ensure that the City and entities that are entitled to Interconnect to the backbone capacity are able to connect optical fibers from the Digital I-Net at appropriate splice points and hubs to utilize the capacity specified under this section, provided there is capacity remaining.

2.4 I-NET INTERCONNECTION

Click! will continue to provide all Digital I-Net connections installed as of the effective date of this Agreement and will provide Digital I-Net connections at any additional site(s) designated by the City, which will allow for Interconnection with the existing City's fiber infrastructure. In addition, Click! will continue to provide the existing Interconnection of

the HFC I-Net at the Master Control Center to facilitate Interconnection with Click!'s headend, for the distribution of PEG Channels.

2.5 I-NET CO-LOCATION

During the term of this Agreement, the City will be permitted to place, or Click! will place at the City's request and expense, necessary transmission electronics associated with I-Net operations, at appropriate locations on, or adjacent to, the Communication Network and at the headend and hub facilities to accommodate the use of the I-Net. The Parties agree there will be appropriate limitations on this right, based on Click!'s commercial needs, including pole attachment considerations, safety considerations, and operational considerations; however, such limitations must be designed only to facilitate reasonable non-interference with Click!'s operations, not to prevent the City's intended use of the I-Net. With certain limitations, such as substations, commercially reasonable efforts will be made to provide space within the existing plant at no cost to the City. However, in the event that accommodations cannot be made, or continue to be made, in existing Click! facilities because of space constraints, the City will bear the Direct Cost of any such additional accommodations.

2.6 GENERAL SERVICE AND TECHNICAL MANAGEMENT OBLIGATIONS

A. General Responsibilities. During the term of this Agreement, and except as otherwise specified in Article 4 herein:

(i) Click! will be responsible for maintaining the Digital I-Net and HFC I-Net to the Demarcation Points at I-Net locations so that the I-Net has a high level of reliability, comparable to the reliability of well-maintained telecommunications systems used for functions similar to those for which the I-Net is currently used.

(ii) Click! will provide repairs on Dark Fiber Connections, upon notification of such requirement by the City, as Click! monitoring of that portion of the I-Net is not possible.

(iii) Click! will continue to maintain and repair the I-Net in a manner consistent with good engineering practices, using qualified personnel.

B. Technical Management. During the term of this Agreement, and except as otherwise specified in Article 4 herein, technical management, status monitoring and repair will be provided for the Digital I-Net and the HFC I-Net by Click!, unless the City specifies in writing that such assistance is not required. The City shall be solely responsible for technical management, status monitoring, and Maintenance of equipment connected to City's Dark Fiber Connections on the I-Net and Click! will be responsible for repairs of Dark Fiber Connections per Section 4.2 unless the City specifies in writing that such repairs are not required.

2.7 I-NET USE, GROWTH AND EXPANSION

A. Continued Use of Network. Pursuant to the Cable Agreement, the City has an Indefeasible Right of Use of the I-Net described in this Agreement. Thus, in the event Click! ceases to operate or maintain the I-Net, the City shall have the right to operate and maintain the I-Net and shall have an absolute right to obtain access to and utilize any Click! facilities or equipment on the I-Net required to do so. In the event Click! were to voluntarily or involuntarily sell, lease, assign, transfer, abandon or otherwise seek to dispose of all or a portion of the Communications Network (the "Assignment"), the City shall have the Indefeasible Right of Use set forth in the Cable Agreement allowing City to operate and maintain the I-Net as required and permitted under this Agreement. Click! hereby agrees that any Assignment of the Communications Network or this Agreement shall specifically include City's Indefeasible Right of Use of the I-Net. Expiration or termination of this Agreement or the Cable Agreement shall not affect rights or obligations accruing prior to termination with respect to the Indefeasible Right of Use granted by Click! to City.

B. Qualified Users.

(i) The I-Net may be used by the City and any Qualified I-Net User to provide any voice, video and data services other than for commercial business purposes in competition with Click! and/or its business partners. This limitation shall not, however, be deemed to prohibit City or Qualified I-Net User use of the I-Net within Click!'s service territory for: (a) any bona fide municipal, educational or public purpose; (b) access to the PEG Channels on the Communications Network; and/or (c) provision of internet services and/or access to the public for such municipal, educational and public purposes. The City agrees to require all Qualified I-Net Users to stipulate and agree to the foregoing limitation.

(ii) Fees may be charged to Qualified I-Net Users by the City for use of the I-Net or for the information transmitted via the I-Net in order to recover I-Net-related costs. However, the City will not charge Click! any transportation, Maintenance, or operation fees (as set forth in a user agreement) for mutually agreed upon uses by Click! of the City's I-Net. For purposes of this Agreement, all references to "City's I-Net" mean those portions of Click!'s Communications Network identified in Exhibit 9.

C. I-Net Description. The City and Click! will maintain and continually update the existing working documents describing the I-Net, which includes, but is not limited to, I-Net addresses, infrastructure, and equipment information.

D. Growth and Expansion Options. The Parties recognize that changes in technology or user needs may present the opportunity to extend or enhance the capacity of the I-Net. Click! and the City shall cooperate in investigating, considering, and negotiating payment for such enhancements.

E. Future I-Net Design and Construction. The City may direct Click! to upgrade the I-Net, construct additional I-Net plant, or add, remove or replace I-Net equipment at any time. After receiving a request for additional I-Net work, Click! will promptly provide the City an estimate of the Direct Costs associated with the additional work. If the City then directs Click! to perform the work, Click! will perform it. Any such work shall be performed and completed within one hundred and twenty (120) Days after the City directs that the work be performed, unless the Parties agree to a different completion date. If Click! decides to install additional plant to areas or sites not included in its existing plant as of the date of this Agreement or in the node maps previously approved by the City, Click! will give the City reasonable notice of such decision together with routing information and Direct Cost estimates sufficiently far in advance so that the City may establish requirements for I-Net construction or upgrade to such areas or sites, and have those requirements implemented as part of Click!'s additional plant construction. If Click! fails to provide the required notice, it will, upon request, design and construct such improvements as are necessary to accommodate the City's I-Net requirements at a cost which does not exceed the Direct Costs the City would have incurred had Click! provided the required notice to the City.

F. Relation to Other Networks. If the City and/or Click! has a relationship with another cable system or communications network, the I-Net may be linked to such other system or network so long as the I-Net use complies with Section 2.7.B(i) herein.

In addition to the requirements of Section 4.6 of the Cable Agreement, Click! shall, at the direction of the City, allow any jurisdiction into which the Communications Network is extended to connect to the I-Net on Click!'s SONET ring, at a convenient hub or splice point within such jurisdiction, so that the jurisdiction can utilize the capacity for bi-directional video, voice or data transmissions to and from the I-Net and any institutional network or similar network in that jurisdiction. Click! shall be responsible for all costs associated with providing the SONET ring activated capacity up to OC3 capacity. The jurisdiction which is connecting to the I-Net on the SONET ring is responsible for the cost associated with providing a connection from the jurisdiction to the hub or splice point. Click! shall not be responsible for any costs for any I-Net end-user equipment required to utilize the connection between the jurisdiction and said hub or splice point and/or any I-Net end-user equipment required to utilize that connection.

ARTICLE 3. SERVICE

3.1 DIGITAL I-NET SERVICE

The following provisions of this Section 3.1 shall apply only to Digital I-Net Services.

A. Click! shall be responsible for Digital I-Net design and construction, and shall see that the City's portion of the Digital I-Net is maintained, repaired and operated

in a manner that fully complies with industry standards as described in Exhibits 1, 2, 3, 4 and 5.

B. City, assisted by Click!, shall develop and maintain complete documentation of I-Net related equipment. Documentation shall include available plans, sketches, equipment inventory, operating parameters, wiring diagrams and accessibility information. Each I-Net User must provide the City with all information reasonably requested by Click! regarding the I-Net User's site, which information will be made available to Click!. Unless agreed upon by the Parties, all communications with the I-Net user shall be made by, or with the express permission of, the City.

C. Working closely with the City, Click! shall establish a sufficient inventory of parts to accommodate ongoing Maintenance and repair of the Digital I-Net.

D. City shall be responsible for or reimburse Click! for the I-Net "extraordinary maintenance" costs associated with the Digital I-Net which costs are not addressed in the service fee schedule set forth in the attached Exhibit 6. These expenses include, but are not limited to, shipping and repair charges for failed circuit packs, replacement of stolen or damaged electronic shelves (when such theft or damage is not due to the negligence of Click!), and their constituent components, expenses associated with I-Net relocations/conversions for street related projects and vacating rights-of-way and easements.

E. Service to I-Net Locations. City shall order Service from Click! by following the "Ordering Procedures for I-Net Services" set forth in Exhibits 4 and 7. The applicable Maintenance charges shall be as set forth in Exhibit 6.

(i) Service to Digital locations shall include normal Maintenance, inspection, repair and testing as provided in Article 4 herein.

F. Special Equipment Requirements.

(i) The City, with Click!, will develop and maintain a recommended SONET equipment list in order to maximize Digital I-Net standardization, minimize procurement difficulties and simplify on-going operations and Maintenance. Equipment selected by Click!, at the City's written request, will be installed at designated I-Net User sites. The City will be given the opportunity to purchase this equipment at the current prices available to Click!.

(ii) Upon the City's written request and at the City's sole expense, Click! will install SONET user equipment selected by the City at designated I-Net user sites.

(iii) The payment for the cost of any special Interface Equipment or facilities necessary to achieve compatibility, if required because of Digital I-Net

User equipment, between telecommunications equipment of Click! and facilities of the I-Net User, shall be at I-Net User's expense unless otherwise agreed.

(iv) Interface Equipment used on the Communications Network are described in Exhibit 1, and follow common industry standards. The City, in conjunction with Click!, shall establish and maintain standards specifying Digital I-Net site Interface Equipment requirements. The City, with Click!, will develop and maintain a recommended equipment list in order to maximize Digital I-Net standardization, minimize procurement difficulties and simplify on-going operations and Maintenance.

G. Equipment and Installation for Digital I-Net Services.

(i) Click! shall specify, design, purchase, install, operate, Provision, maintain, and repair, the telecommunications equipment necessary to allow Digital I-Net Services in support of identified City applications. Except as provided in Section 3.1.F herein, City shall pay the cost of purchasing and installing all telecommunications equipment necessary for Service.

(ii) Click! will provide telecommunications equipment and Service to the Demarcation Site. The City shall be responsible for the procurement and maintenance of all rights-of- way and any necessary private or public easements or licenses required for the installation of Click!'s equipment. It is understood that no licenses or permits will be necessary for the installation of the City's Digital I-Net within City street and alley rights-of–way. The City's agreement with I-Net Users will permit City, Click! and their respective personnel and contractors sufficient access rights to install and locate Digital I-Net facilities and equipment on such user's property.

(iii) Notwithstanding any provision of this Agreement to the contrary, if City provides its own telecommunications equipment, Click! shall have no obligation to install, maintain or repair such City equipment.

(iv) The City shall not modify, repair, adjust, replace or add to I-Net related wiring, cabling, connections or equipment without prior consultation with and approval by Click!. The City may add new I-Net sites pursuant to Section 2.7.D and E, and/or Section 5.1.B(v). New site development may require Click! participation. Payment of all Direct Costs for expansion of Click! facilities, I-Net fiber optic equipment, other site equipment, I-Net Hub and/or node changes is the responsibility of the City.

(v) After Click! has installed Digital I-Net related telecommunications equipment, ownership of the equipment shall remain the sole and exclusive property of the City or I-Net User, and nothing contained herein shall give or convey ownership to Click!. When City's equipment is installed along with Click!'s equipment, then both shall prominently affix identifying plates, tags or

labels on such telecommunications equipment showing City's and Click!'s respective ownership thereof. Neither Party shall tamper with, remove or conceal such identifying plates, tags or labels, nor knowingly allow third parties to do so.

H. Test and Performance Standards for Digital I-Net Services.

(i) Click! shall at all times comply with the test and performance standards set forth in Exhibits 1 and 2.

3.2 HFC SERVICE

The following provisions of this Section 3.2 shall apply only to HFC I-Net Services.

A. Click! shall be responsible for HFC I-Net construction, and shall ensure that the City's portion of the HFC I-Net is installed, maintained, and repaired in a manner that fully complies with all applicable provisions of the Federal Communications Commission Rules and Regulations set forth in 47 CFR Part 76, as revised or amended from time to time, and in Exhibits 2, 3 and 6.

B. City, assisted by Click!, shall develop and maintain complete documentation of I-Net related equipment. Documentation shall include available plans, sketches, equipment inventory, operating parameters, wiring diagrams and accessibility information. Each I-Net User must provide the City with all information reasonably requested by Click! regarding the I-Net User's site, which information will be made available to Click!. Unless agreed upon by the Parties, all communications with the I-Net user shall be made by, or with the express permission of, the City.

C. Service Application Process. The City, for itself and on behalf of all its designated Qualified HFC I-Net Users, is required to follow the steps on the flow chart in Exhibit 7 when requesting HFC I-Net service. Once the HFC I-Net service has been requested, Click! is required to the follow the steps specified in Exhibit 7.

D. The City, assisted by Click!, shall develop and maintain complete documentation of HFC I-Net related equipment. Documentation shall include available plans, sketches, equipment inventory, operating parameters, wiring diagrams, and accessibility information. Each HFC I-Net User must provide the City with all information reasonably requested by Click! regarding the HFC I-Net User's site, which information will be made available to Click!. Unless agreed upon by the Parties, all communications with the HFC I-Net user shall be made by, or with the express permission of, the City.

E. Upon written request from the City, Click! shall provide City with a list of interface and transmission equipment maintained by Click! and Maintenance work performed by Click! on the HFC I-Net.

F. The City shall be responsible for, or reimburse Click! for, any I-Net "extraordinary maintenance" costs associated with the I-Net, that are not addressed in the service fee schedule set forth in the attached exhibits. These expenses include, but are not limited to, shipping and repair charges for replacement of stolen or damaged equipment (when such theft or damage is not due to the negligence of Click!), and their constituent components, expenses associated with Network relocations for street related projects, and vacating rights-of-way and easements.

G. Test and Performance Standards for HFC I-Net Services. Click! will maintain HFC I-Net Connections to manufacturer's specifications up to the Demarcation Point, which point establishes the respective area of responsibility for Click! and City.

H. Performance Monitoring and Reporting.

(i) The City will be responsible for performing surveillance and monitoring signal quality on the HFC I-Net.

(ii) Click! shall maintain a twenty-four (24) hours a Day, seven (7) Days a week point-of-contact for the City to report HFC I-Net troubles. The contact will be the NSA.

3.3 DARK FIBER CONNECTIONS

Click! shall be responsible for constructing Dark Fiber Connections upon request by City, pursuant to provisions in Section 2.7.D and E and as otherwise provided in the Agreement.

3.4 WARRANTIES/ACCEPTANCE

The Acceptance of the I-Net system or any component thereof, or payment therefore, shall not waive any defect in the work or constitute Acceptance of work or equipment not in compliance with the applicable design and specification requirements. Click! shall provide in its contracts for warranties of the work and equipment satisfactory to the City and will provide for the enforcement of such warranties and for the correction of work or equipment not provided in accordance with applicable design and specification requirements or which is otherwise defective.

A. Warranties and Network Standards.

(i) The Parties agree that if Click! determines, or at the request of the City, that an emergency action is necessary to protect either the Communications Network or the I-Net, Click! may block any transmission path over the I-Net. The Parties further agree that none of their respective obligations to one another under this Agreement shall be affected by any such blockage, and that no Party shall have any obligation to the other Party for any claim, judgment or liability resulting from such blockage. If City objects to the blockage, the Parties shall

immediately meet to review the matter and, if the Parties are unable to agree upon a mutually acceptable course of action, the matter will be referred to the City's Director of Information Technology to issue a final decision.

(ii) Click! represents and warrants to City that except for Dark Fiber Connections: (i) the Service provided over the I-Net shall meet the standards set forth in Exhibits 1 and 2, other than for reasons of Planned Service Outages, or reasons set forth in Article 11 hereof; and (ii) the Circuits connecting two locations shall have a physically diverse path (except with respect to laterals off the backbone and building entrances).

ARTICLE 4. MAINTENANCE AND REPAIR OF I-NET

4.1 MAINTENANCE AND REPAIR OF I-NET

Maintenance and repair of the I-Net shall be performed by Click! in accordance with the provisions of Exhibits 3 and 8. Except as otherwise specifically provided for in this Section 4.1, any Maintenance and repair required on Click!'s Communication Network shall be performed by Click!

A. Click! shall perform all Maintenance and repair from the HFC I-Net User Premises to and from the Master Control Center twenty-four (24) hours per Day, seven (7) Days per week.

B. The City is responsible for inventorying spare components of the HFC I-Net, delivering the parts to the repair site (once a Click! technician identifies the problem component and notifies the City) and for shipping the failed component back to the manufacturer for repair or replacement. The City's inventory, located at the Master Control Center should include the following spare parts, as may be amended from time to time by mutual agreement of the Parties:

(i) Optical control shelf

(ii) Power supply module

(iii) EDFA laser module (1510 nm)

(iv) DFB 860 laser transmitter module (1310 nm)

(v) Optical dual path receiver

(vi) Forward path receiver

(vii) ADC 3040 mid-split node

(viii) Equipment fan

Click! is responsible for having spare fiber jumpers available when technicians respond to HFC I-Net Maintenance calls.

C. Response and Repair Times. Except as otherwise provided in this Agreement, in the event of a Service Outage, Click shall have repair personnel, when site access is granted, on site within three (3) hours after receiving notification of the outage from the NSA. Click! shall restore the Service as follows:

(i) The NSA will contact the Click! technician on stand-by within thirty (30) minutes after the City has notified the NSA of a Service Outage. City is responsible for HFC I-Net User notification.

(ii) Electronic Restoration: In the event of an electronic failure, Click! shall use commercially reasonable efforts to restore service within one (1) hour of arrival of Maintenance personnel on site.

(iii) Fiber Cable Restoration: In the event of a cable failure, Click! shall begin cable restoration within three (3) hours after the faulty cable is identified. Click! shall use its best efforts to restore the cable no later than six (6) hours after failure. If a safety problem exists, the restoration will not take place until the safety problem has been satisfied.

D. Scheduled Maintenance.

(i) Maintenance which may require system down time will normally be performed during the "Maintenance Window" of 12:00 midnight and 6:00 a.m., or a time mutually agreed to by City and Click!.

(ii) Click! Maintenance personnel will notify City prior to beginning scheduled Maintenance work and must receive concurrence, which shall not be unreasonably withheld, to proceed. Click! personnel will notify City upon completion of scheduled Maintenance work and receive concurrence that all Service is fully operational.

E. Click! shall not be obligated to comply with the requirements of Section 4.1.C when Click! determines it is necessary to perform Emergency Maintenance on the Communications Network.

F. Access to Equipment and Facilities.

(i) Employees or agents of Click! may require escorted access to any I-Net equipment or facilities at a City or I-Net User Premises, subject to City's, or such I-Net User's access and security regulations. These shall include, but not be limited to:

- Proper picture identification
- Click! authorized personnel list
- Restricted Area Access Provisions
- Accompaniment by I-Net User/City personnel
- Click! employees or agents, while on City or I-Net User Premises, shall comply with the I-Net User and/or City rules and regulations.

(ii) Upon request, employees or agents of City shall be given escorted access to areas at Click! locations containing facilities and/or equipment associated with City's service, subject to Click!'s access and security regulations. These shall include, but not be limited to:

- Proper picture identification
- City authorized personnel list
- Restricted Area Access Provisions
- Accompaniment by Click! personnel
- City employees (non-Click!) or agents, while on Click! premises, shall comply with Click!'s plan rules and regulations.

(iii) Upon request from City, Click! will inform City of scheduled and non-scheduled Maintenance and repair activity. City shall have the right, upon twenty-four (24) hours advance notice to Click!, to be present during Click! equipment testing, and during scheduled and non-scheduled Maintenance and repair activity.

4.2 REPAIR OF DARK FIBER CONNECTIONS.

A. The City shall be solely responsible for notifying Click! of Dark Fiber Connection failures and the need for repairs.

B. Click! shall be provided access to the Dark Fiber three hundred sixty-five (365) Days per year, twenty-four (24) hours per Day. In the event the City notifies Click! of a Dark Fiber Connection failure, Click! shall begin restoration within four (4) hours after the faulty connection is identified. Click! shall use commercially reasonable efforts to restore the connection no later than eight (8) hours after failure. If a safety problem exists, the restoration will not take place until the safety problem has been satisfied. City shall pay the Direct Costs of all such restorations set forth in this Section 4.2.

ARTICLE 5. BILLING AND PAYMENT

5.1 GENERAL I-NET PAYMENT ARRANGEMENTS

A. Obligation to Pay. Click! will not charge for the I-Net or for the use of the I-Net by the City or Qualified Users, except as provided in this Article 5. The City will be

obligated to make payments to Click! for Direct Costs for the I-Net only from Available Funds (as hereinafter designated).

(i) Available Funds. Available Funds shall mean any legally available funds. Nothing herein shall be construed to create general indebtedness of the City within the meaning of Section 4.2 of the Tacoma City Charter.

B. Manner of Payment.

(i) Maximum Amount. The Direct Costs payable herein shall not exceed the maximum amounts, as may from time-to-time be approved by the Tacoma City Council by resolution or ordinance.

(ii) Payments for Maintenance. Maintenance rates are specified in Exhibit 6 and shall be due and payable in accordance with Subsection 5.1.D below and Sections 5.2 and 5.3 below.

(iii) CPI Adjustment of Maintenance Costs. Beginning June 2010, and every subsequent two-year period thereafter, Click! will notify the City of the adjusted I-Net service rates to be effective the following January, which will begin a new biennial budget cycle. I-Net rates will be adjusted using the Seattle-Tacoma-Bremerton, WA Consumer Price Index (CPI) for all Urban Consumers from the prior year end.

(iv) Payments for I-Net Additions and Upgrades. Invoices for I-Net additions and upgrades may be submitted after the work requested has been completed, fully inspected and tested, passed all tests and found to be in conformity with the City's requirements for the addition or upgrade; and (to the extent that activation is requested by the City) activated.

(v) Payments for Service and Maintenance of New Technologies. As new services and technologies are introduced and implemented the Parties will negotiate in good faith associated rates and include such rates in Exhibit 6 and will otherwise amend this Agreement to address the relative obligations of each Party depending upon technologies involved.

C. Timing and Documentation of Costs. Upon submission by Click! in such form as may be required by the City of a proper invoice accompanied by a breakdown of Direct Costs, together with such evidence in support thereof as may be reasonably required by the City, the City agrees to make payments to Click! for Direct Costs incurred and paid by Click! for construction costs associated with completion of a node as work on the I-Net associated with that node is completed. Provided, however, all invoices and payments shall be subject to adjustment or withholding for any amounts found upon audit or otherwise to have been improperly invoiced or for failure to perform in a timely manner or in conformity with this Agreement. Work on a node area will be deemed completed when Click! has constructed the I-Net to all locations to which the

City has requested that Click! extend the I-Net within the node area, and the I-Net has been fully inspected and tested, passed all tests and been found to be completed in conformity with this Agreement and (to the extent requested by the City) has been activated. Work on the I-Net Backbone and Service Loops may be billed when work on the same (or a discrete and useable portion thereof) has been completed, that portion of the I-Net has been fully inspected and tested passed all tests and been found to be completed in conformity with this Agreement and (to the extent requested by the City) has been activated. Click! shall prepare and submit with each request for payment: (i) an itemization of the amount of work performed or items purchased and the amount of Direct Costs paid therefor; and (ii) a certificate that the work, materials and equipment for which payment is requested has been incorporated into the work and provided or completed, tested and inspected and the I-Net activated in accordance with the applicable design and specifications under which the same were to be provided.

(i) Terms of Payment. Payments for Direct Costs that are not subject to dispute or withholding will, from and after thirty (30) Days of receipt of a proper invoice and certificate for payment, accrue interest until paid at the rate equal to the interest rate on interdepartmental fund loans, as from time to time determined by the City Treasurer; except that, the final payment of unpaid Direct Costs associated with construction of the I-Net shall be due within ninety (90) Days after completion of final testing and inspection of the I-Net, and activation of those portions that the City directs Click! to activate, and after: (1) Click! has provided a certificate or other evidence satisfactory to the City that the node or other component for which final payment is sought has been completed in accordance with the applicable design and specification requirements and (2) Click! has provided a copy of the final construction certification acceptance tests demonstrating compliance with applicable design and specification requirements and FCC standards and (3) the City has Accepted such work and equipment.

D. Direct Costs. Direct Costs shall mean those costs which the City has agreed to pay under this Agreement and which Click! has properly documented as being incurred by Click! for the purposes for which Click! is entitled to payment hereunder. Direct Costs include:

(i) Costs of necessary materials, equipment and hardware to add to or to upgrade the I-Net;

(ii) Documented and required payments made by Click! to contractors for performing work on the I-Net;

(iii) Wages and salaries of Click!'s employees performing work on the I-Net, including those employees involved in designing and mapping the I-Net (to the extent such designing and mapping is a direct cost that is over and above any cost that Click! would incur in designing and mapping its Communication Network), and including management and supervision costs incurred by persons working in the field on the I-Net (over and above any cost that Click! would incur in managing and supervising its own Communication Network), and also

including their welfare, unemployment compensation, social security and other benefits, for such part of their time as is employed on this work;

(iv) Payroll taxes and insurance and contributions applicable to the portion of the wages and salaries of Click!'s employees allocable to the I-Net, and any sales, excise, business and occupation, and other taxes paid by Click! on materials, equipment, supplies and directly chargeable to the work on the I-Net;

(v) Any labor force travel expenses directly chargeable to the work on the I-Net;

(vi) Costs of necessary licenses and permit fees, including rights-of-way construction permit fees and inspection fees, if any, related to the I-Net;

(vii) Reasonable rental costs for the use of any necessary temporary facilities, or special machinery, equipment and hand tools used in the work on the I-Net;

(viii) Losses, expenses, and cost of reconstructing any work destroyed or damaged, not compensated by insurance or otherwise, sustained by Click! in connection with the work, provided they have resulted from causes other than the fault or negligence of Click!;

(ix) Costs of removal of debris on the I-Net;

(x) Costs incurred on the I-Net in taking action to prevent threatened damage, injury, loss in case of an emergency affecting the safety of persons and property; and

(xi) Other costs incurred on the I-Net in the performance of the work if and to the extent approved in advance in writing by City.

E. Direct Costs do not include:

(i) Salaries and other compensation of Click! 's employees stationed at Click!'s principal office or offices other than the work site, except as expressly provided in Section 5.1.D(iii) above;

(ii) Overhead and general expenses, except as may be expressly included in Section 5.1.D above;

(iii) Click!'s capital expenses, including interest on Click!'s capital, employed for the work;

(iv) Costs due to the fault or negligence of Click!, contractors or subcontractors, anyone directly or indirectly employed by any of them, or for those whose acts any of them may be liable, including, but not limited to, costs for the correction of damage, defective or nonconforming work, disposal and replacement of materials and equipment incorrectly ordered or supplied, in making good damage to property not forming a part of the work.

(v) Pole attachment and conduit rental fees for poles and conduit owned or controlled by Click!.

5.2 SPECIFIC BILLING AND PAYMENT APPLICABLE TO DIGITAL I-NET

A. As compensation for the Digital I-Net Services provided by Click! hereunder, City shall pay charges set forth in Exhibit 6. The Parties shall provide one another with reasonably requested information for bill documentation, including, but not limited to, the number of fibers, number of I-Net User sites, and number of active fiber miles with active transport Service. The Parties will cooperate to enable Click! to provide its billing information in an electronic file (i.e., in an Excel for Windows format), at such time as Click! is able to accommodate this function. Click! shall bill for all Services rendered within forty-five (45) Days of circuit testing and acceptance as specified under the terms of this Agreement.

B. In the event City disputes any billing by Click!, City shall notify Click! in writing, providing the billing identification, and an explanation for the dispute, and shall nevertheless pay all charges not disputed in this manner within the period specified above. The Parties will cooperate in good faith to resolve any such disputes within a sixty-Day (60-Day) period after the dispute is submitted to Click!. If the dispute is not resolved during this period, then either Party may seek alternative dispute resolution, in accordance with Section 5.4.B herein.

C. The City may add new I-Net sites, pursuant Section 2.7.D and E herein. I-Net site development costs associated with the City or I-Net User's side of the Demarcation Site shall be borne by the City or I-Net User, respectively.

D. Monthly Digital I-Net Maintenance Costs are shown in Exhibit 6.

5.3 ADDITIONAL BILLING AND PAYMENT TERMS APPLICABLE TO HFC I-NET

A. As compensation for the HFC I-Net Services provided by Click! hereunder, City shall pay charges set forth in Exhibit 6. The Parties shall provide one another with reasonably requested information for bill documentation. The Parties will cooperate to enable Click! to provide its billing information in an electronic file (i.e., in an Excel for Windows format) at such time as Click! is able to accommodate this function. Click! shall bill for all services rendered within forty-five (45) Days of circuit testing and acceptance as specified under the terms of this Agreement.

B. In the event City disputes any billing by Click!, City shall notify Click! in writing, providing the billing identification, and an explanation for the dispute, and shall nevertheless pay all charges not disputed in this manner within the period specified above. The Parties will cooperate in good faith to resolve any such disputes within a sixty-Day (60-Day) period after the dispute is submitted to Click!. If the dispute is not resolved during this period, then either Party may seek alternative dispute resolution, in accordance with Section 5.4.B herein.

C. The City may add new HFC I-Net sites, pursuant to Section 2.7.D and E herein. I-Net site development costs associated with the City or I-Net User's side of the Demarcation Site shall be borne by the City or HFC I-Net User, respectively.

D. Monthly HFC I-Net Maintenance Costs are shown in Exhibit 6.

5.4 MISCELLANEOUS BILLING AND PAYMENT PROVISIONS

A. Intent of Parties; Exceptions

(i) It is the intent of Click! and the City that where Click! (a) is constructing its plant to a particular location,(b) or installs excess facilities for use other than I-Net use (such as additional interduct or cable) when it installs the I-Net, or (c) can be required to provide a free drop, the cost to the City of the I-Net which is provided to the same location will not include such costs as the cost of undergrounding, conduit, or other work, materials equipment or costs which Click! would have provided for or incurred had it constructed said plant, facilities or drop even if the I-Net was not provided to such location.

B. Costs/Disputes

(i) If the administrative staff of the City and Click! disagree as to the amount to be paid by City to Click! for I-Net installation, Maintenance, repair or Service, under the terms of the Agreement, the matter shall be referred to the City Manager and the Director of Public Utilities for resolution. If the City Manager and the Director of Public Utilities are unable to reach an accord, the matter shall be referred to the Utility Board for its determination and if such determination is not one with which the City concurs, or if the Utility Board fails to act within a reasonable time, the matter will be referred to the City Council for final resolution.

ARTICLE 6. INDEMNIFICATION

6.1 Except for liability specified in Section 6.1.E below, the City shall indemnify, defend and hold harmless Click! and its employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages,

liabilities, losses, and expenses (including reasonable attorney's fees) incurred as a result of:

A. Claims for libel, slander, infringement of copyright or unauthorized use of trademark, trade name or service mark arising out of City's and/or City authorized I-Net User's use of the I-Net system;

B. Claims for patent infringement arising from combining or connection of facilities to use Click!'s Communications Network;

C. Claims for damage to property and/or personal injuries (including death) arising out of the negligence or willful act or omission of City and/or I-Net User, and/or their respective officers, employees, agents or contractors; and

D. Claims related to Click!'s temporary service stoppage resulting from an I-Net or other system user's illegal and/or other inappropriate use, that result in partial or system-wide Communications Network shut down, or loss of connectivity with outside networks.

E. Except as otherwise provided herein, Click! shall be liable for any loss or damage to City's and/or I-Net User's telecommunications equipment arising from Click!'s gross negligence, intentional act, or unauthorized Maintenance to the extent the avoidance of same is within the reasonable control of Click!, its employees or agents. Except as otherwise provided herein, City shall be liable for any loss or damage to Click!'s telecommunications equipment arising from City's gross negligence, intentional act, or unauthorized Maintenance to the extent the avoidance of same is within the reasonable control of City, its employees or agents. In the event of any loss or damage to the telecommunications equipment for which either Party is liable, the liable Party shall reimburse the other Party for the reasonable cost of repair or replacement thereof within thirty (30) Days after receipt of a written request for such reimbursement.

ARTICLE 7. DEFAULT

7.1 A Party shall be deemed in default of this Agreement if it fails to perform any of its material obligations under this Agreement and such nonperformance is not remedied within sixty (60) Days after written notice thereof.

7.2 A material breach of this Agreement by Click! shall be considered a material violation of the Cable Agreement. The procedure for notification, cure and implementation of remedies for any such breach shall be handled consistent with the procedures set forth in Section 8 of the Cable Agreement and the City shall have the right to implement any of the remedies set forth in Section 8 of the Cable Agreement following the notice and opportunity to cure.

7.3 A material breach of this Agreement by City shall entitle Click! to all remedies available at law or in equity and Click! shall have the right to terminate this Agreement, without forfeiting any of its rights under the Cable Agreement, subject to the notice and cure period stated in Section 7.1 above.

7.4 If either Party should invoke a claim of *force majeure* as a defense to a material violation, Article 11 of this Agreement shall govern.

7.5 If the Cable Agreement has been terminated or abandoned or Click! is operating in the City under an alternative form of authorization permitted under state or federal law, the Parties agree to amend this Agreement to incorporate enforcement procedures into this Agreement that parallel the procedures and remedies available under Section 8 of Cable Agreement.

ARTICLE 8. LIMITATION OF LIABILITY

8.1 Neither Party shall be liable to the other Party for any indirect, consequential, special, incidental, reliance, or punitive damages of any kind or nature whatsoever (including, but not limited to, for any lost profits, lost revenues, lost savings, or harm to business), regardless of the foreseeability thereof. For purposes of this Agreement, a Party's out-of-pocket costs for damages of the kinds specified in the preceding sentence which are recovered from such Party by a third party shall be deemed to be indirect damages to such Party, except to the extent such damages are part of claims for which indemnification is due under Sections 9.1 and 9.2. Each Party hereby releases the other Party, its subsidiaries and affiliates, and their respective officers, directors, managers, employees, and agents from any such claim.

ARTICLE 9. CONFIDENTIAL INFORMATION

9.1 In the course of performance hereunder, the Parties may have access to certain information, the ownership and confidential status of which is highly important to the other Party, including, but not limited to, information about products, services, business plans, trade secrets, discoveries, ideas, designs, drawings, specifications, techniques, models, data, programs, documentation, processes, know-how, customer lists, marketing plans, and financial and technical information and other information treated or designated by one of the Parties as confidential (herein referred to as "Confidential Information").

9.2 Neither Party shall disclose the other Party's Confidential Information, directly or indirectly, under any circumstances or by any means, to any third person without the express written consent of the other Party, and neither Party shall copy, transmit, reproduce, summarize, quote, or make commercial or other use whatsoever of the other Party's Confidential Information, except as may be necessary to perform its duties hereunder. Each Party shall exercise the highest degree of care in safeguarding

the other Party's Confidential Information against loss, theft, or other inadvertent disclosure and take all steps necessary to maintain such confidentiality; provided, however, City and Click! are subject to the Washington State Public Records Act, Chapter 42.56 RCW. Therefore, in the event City or Click! believe that any writing or communication received pursuant to this Agreement is subject to said Act's disclosure requirement, then the Parties, with the advice of the City Attorney, will by mutual agreement, make any appropriate disclosures and/or take any other necessary action.

ARTICLE 10. TERM AND RENEWAL OPTIONS

10.1 This Agreement shall run concurrently with the Cable Agreement and will commence on the effective date of the Cable Agreement as set forth in Section 1.20 of the Cable Agreement. This Agreement (as it may be modified or amended) shall continue for any extensions or renewals of the Cable Agreement, unless the Parties mutually agree to extend or renew this Agreement on a different basis.

10.2 In the event the Cable Agreement has been terminated or abandoned or Click! is operating in the City under an alternative form of authorization permitted under state or federal law, the Parties agree to amend this Agreement to extend the ten-year (10-year) term of this Agreement for an additional two (2) years; provided, that immediately upon the commencement of said two year extension, the Parties shall enter into good faith negotiations to further extend or renew the term taking into consideration the then current status of (1) Operator's and Tacoma Power's operations, (2) costs and industry practices for institutional network rates, (3) the City's initial and ongoing capital investment in the I-Net, including the City's financing of annual maintenance and repair of the I-Net, and (4) technology and network elements. In no event shall the termination or abandonment of the Cable Agreement or this Agreement in any way modify or negate the City's Indefeasible Right of Use set forth in Section 2.7 herein.

10.3 Upon written request of City or Click! to review exhibits hereto, to be made not more frequently than annually, the Parties shall review such exhibit or exhibits identified in the request and engage in good faith negotiations to modify or adjust the terms thereof.

10.4 This Agreement, as required in the Cable Agreement, will be reviewed in the same manner as the Cable Agreement. Within sixty (60) Days of the third (3rd) and sixth (6th) annual anniversary of the Cable Agreement, the City and Click! may conduct a review of the document to ensure that the Agreement continues to effectively serve the Parties in the light of new developments in the management and Maintenance of the I-Net. If, after completion of such review, the City and Click! agree that the public interest would be served by modifying certain obligations of the Agreement, such modification may be made as mutually agreed.

ARTICLE 11. FORCE MAJEURE

11.1 In no event shall a Party have any claim or right against the other Party for any failure of performance due to causes beyond its control, including, but not limited to, acts of nature; fire; explosion; vandalism; cable cut; storm; flood or other similar occurrences; any law, order regulation, direction, action or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over Click!, or of any department, agency, commission, bureau, corporation, or other instrumentality of any federal, state, or local government, or of any civil or military authority; national emergencies; unavailability of materials or rights-of-way; insurrections; riots, wars; strikes, lock-outs, work stoppages, or other labor difficulties; or supplier failures, shortages, breaches or delays.

ARTICLE 12. REGULATIONS

12.1 Each Party represents that it is not aware of any facts that would justify a complaint to the FCC or any state regulatory authority concerning the prices, terms or conditions of the transactions contemplated by this Agreement. The Parties also agree that in the event of a decision by a telecommunications regulatory authority at the federal, state or local level necessitates modifications in this Agreement, the Parties will negotiate in good faith to modify this Agreement in light of such decision.

ARTICLE 13. ASSIGNABILITY

13.1 Neither Party may assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, that no consent shall be required for assignment by a Party to an entity that either controls or is controlled by that Party. Notwithstanding the foregoing, in the event this Agreement is assigned by City to any third party, by assignment, operation of law or otherwise, which third party, prior to the assignment, has an agreement (the “Prior Agreement”) with Click! or any of its affiliates for the provision of services, the services being provided shall continue to be governed by the Prior Agreement, and the Service provided hereunder shall continue to be governed by this Agreement, each without reference to the other.

ARTICLE 14. MISCELLANEOUS

14.1 This Agreement does not render either Party the agent or legal representative of the other Party and does not create a partnership or joint venture between City and Click!. Neither Party shall have any authority to agree for or bind the other Party in any manner whatsoever. This Agreement confers no rights of any kind upon any third party.

14.2 The failure of either Party to give notice of default or to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not be considered the waiver of any other term or condition of this Agreement.

14.3 No subsequent agreement among the Parties concerning the Service shall be effective or binding unless it is made in writing by authorized representatives of the Parties.

14.4 If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of said provision or the remaining provisions of this Agreement.

14.5 This Agreement is made pursuant to and shall be construed and enforced in accordance with the laws of the State of Washington, without regard to choice of law principles. Pierce County shall be the venue of any arbitration or lawsuit arising out of this Agreement. Each Party and its counsel have reviewed this Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the construction and interpretation hereof.

14.6 This Agreement, together with all exhibits referred to herein, is the entire agreement of the Parties and supersedes all prior negotiations and agreements, whether written or oral. There are no representations, warranties, agreements, or understandings (whether oral or written) between the Parties relating to the subject matter hereof which are not fully expressed herein. This Agreement may be amended only by written agreement, and no purported oral amendment to this Agreement shall be valid. The article or section headings hereof are inserted for convenience of reference only, are not a part hereof, and shall have no effect on the construction or interpretation hereof.

14.7 All exhibits, which may be inserted or amended from time to time, and any addenda, attachments, and schedules which, from time to time, may be referred to in any duly executed amendment to this Agreement are by such reference incorporated in this Agreement and shall be deemed a part hereof.

14.8 Time is of the essence in this Agreement and for the performance of all covenants and conditions of this Agreement.

14.9 Each Party agrees to execute all documents and do all things necessary and appropriate to carry out the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Day and year first above written.

CITY OF TACOMA
General Government

_____

Eric A. Anderson Date
City Manager

_____

Michelle Lewis-Hodges Date
Information Technology Director

_____

Robert K. Biles Date
Finance Director

_____

Debbie L. Dahlstrom Date
Risk Manager

Approved as to Form:

_____

Elizabeth A. Pauli Date
City Attorney

Attest:

_____

Doris Sorum Date

CITY OF TACOMA
Department of Public Utilities

_____

William A. Gaines Date
Utilities Director/CEO

_____

Theodore C. Coates Date
Power Superintendent/COO

Approved as to Form:

_____

Deputy City Attorney Date

Exhibit 1

Description of Technical Standards and Testing

1.0 INTERFACE REQUIREMENTS

1.1 DS-3 Interface Requirements

The Network Interface will be at a DSX-3 cross connect located in the I-Net User's DSX-3 environment.

1.2 DS-1 Interface Requirements

The Network Interface between Click! and City will be at an RJ-48 jack. The signal format shall be B8ZS. AMI shall be provided as an option. The frame format shall be that of the Extended Superframe (ESF). Super Frame (SF) frame format shall be provided as an option.

1.3 OC-3 Interface Requirements

The Network Interface will be at a SC/UPC single mode optical connector in the I-Net User environment.

1.4 OC-12 Interface Requirements

The Network Interface will be at a SC/UPC single mode optical connector in the I-Net User environment.

1.5 OC-48 Interface Requirements

The Network Interface will be at a SC/UPC single mode optical connector in the I-Net user environment.

1.6 Ethernet Interface Requirements

The Network Interface will be at an RJ-45 unshielded twisted pair connector in the I-Net user environment. The signal format shall be IEEE 802.3 10BaseT standard.

1.7 Click! Splicing Standards

After the initial splicing of the Fiber Termination Panel (FTP), each fiber termination shall be tested using a 500 meter launch box and an Optical Time Domain Reflectometer (OTDR). This test shall verify that the connector loss meets or exceeds Click! standards.

After the fiber link is completed, it shall be bi-directionally tested with an OTDR from both ends. Where appropriate, the circuit shall be opened and tested from both sides of the FTP.

The fiber test results shall be downloaded onto a computer and analyzed with specialized software to verify Click! standards are met or exceeded. This test data shall be made available to the City for review.

Click! shall meet or exceed the following standards:
Fusion Splice = **0.1 dB**
Fiber Connector = **0.25 dB**
Fiber Attenuation = **0.35 dB/km @ 1310 nm - 0.25 db/km @ 1550 nm**.

Fiber connectors and splices that do not meet Click! standards shall be repaired and retested in a commercially reasonable time period.

Each and every fiber connector shall be cleaned using the highest quality cleaning agent to insure that the fiber connector face is clear of any contaminants.

2.0 TRANSMISSION PERFORMANCE SPECIFICATION

2.1 Performance for DS-3 and DS-1 connections shall meet the standards set forth in Exhibit 2.

3.0 SYSTEM ACCEPTANCE CRITERIA

3.1 End-to-end system performance.

The following acceptance tests will be conducted and copies provided to the City:

DS-1: DS-1 testing shall run for a 15-minute period. City shall accept a DS-1 circuit when it operates error-free over the 24-hour evaluation period and the overall availability is 99%.

DS-3: DS3 testing shall be end to end testing. Testing shall run a 1-hour period. City shall accept DS-3 circuit when it operates error-free over any 24-hour period and the overall availability, as measured over the 24-hour period, is 99%.

OC-3 OC-3 testing shall be end to end testing. Testing shall run a 1-hour period. City shall accept OC-3 circuit when it operates error-free over any 24-hour period and the overall availability, as measured over the 24-hour period, is 99%.

OC-12	OC-12 testing shall be end to end testing. Testing shall run a 1-hour period. City shall accept OC-12 circuit when it operates error-free over any 24-hour period and the overall availability, as measured over the 24-hour period, is 99%.
OC-48	OC-48 testing shall be end to end testing. Testing shall run a 1-hour period. City shall accept OC-48 circuit when it operates error-free over any 24-hour period and the overall availability, as measured over the 24-hour period, is 99%.
Ethernet	Ethernet testing shall be end to end testing. Testing shall run a 1-hour period. City shall accept Ethernet facility when it operates error-free over any 24 hour period and the overall availability, as measured over the 24-hour period, is 99%.

3.2 Equipment Alarm and Status Indication Functionality

All equipment alarm functions and status indicators provided by the equipment vendor will function properly under all simulated (non-destructive) alarm conditions.

Exhibit 2

Digital I-Net Circuit Availability Standards and HFC Standards

1.0 Availability Objective per month:

DS-1 - 99%
DS-3 - 99%
OC-3 - 99%
OC-12 - 99%
OC-48 - 99%
Ethernet - 99%

2.0 Bit Error Ratio (BER):

DS-1 - runs at 10^{-6}
Alarm sounds at 10^{-4}

DS-3 - runs at 10^{-7}
Alarm sounds at 10^{-5}

OC-3 - runs at 10^{-9}
Alarm sounds at 10^{-6}

OC-12 - runs at 10^{-9}
Alarm sounds at 10^{-6}

OC-48 - runs at 10^{-9}
Alarm sounds at 10^{-6}

3.0 Maximum Consecutive Zeros (DS-1): 15

4.0 Error Bursts (BES): DS-3 - 1 per Day

5.0 Error Free Seconds (EFS): DS-1 - 99% in a 24 hour test period

6.0 Bi-Polar Violations: No more than 1 in a 24-hour test period

7.0 Clocking: Stratum 2 level clocking

8.0 Customer evaluation periods:

Evaluation period for DS-1: 24 hours
Evaluation periods for DS-3: 24 hours
Evaluation periods for OC-3: 24 hours
Evaluation periods for OC-12: 24 hours
Evaluation periods for OC-48: 24 hours
Evaluation periods for Ethernet: 24 hours

9.0 All circuits DS-1, DS-3, OC-3, OC-12 and OC-48 must meet applicable specifications contained in Bellcore FR-NWT-000440

All Ethernet circuits shall meet applicable specifications contained in IEEE 802.2 and 80203 for Ethernet transparent bridges

HFC I-Net Standards

The HFC portion of the I-Net is a unique mid-split design (5 to 181 MHz upstream and 222 to 870 MHz downstream) and is certified and maintained in the following manner, and agreed to by both Parties.

1. Initial certification

Upon request for a new HFC site, once the fiber is constructed and the ADC node is in place, the following activities are conducted by Click! on behalf of the City:

1.1 Technicians set up the fiber link and document light level inputs.
1.2 AC and DC voltages are checked and documented.
1.3 Forward signals are adjusted, equalized, padded and documented.
1.4 Return signals are adjusted from site modulator to optical transmitter input. The site modulator is set to +60dBmV and the modulator output is attenuated to reach the transmitter target optic drive level. Return signals are documented.
1.5 Technicians generate a node and site “birth certificate” with all documentation at time of “fire off”, to set a base line.

2. Annual maintenance

The following maintenance activities are conducted by Click! on behalf of the City:

2.1 Technicians conduct a full node re-certification from site modulator to hub receiver on each HFC I-Net node.
2.2 Technicians conduct forced ingress tests and document any signal leaks found, trouble-shoot causes, repair and document final results.
2.3 Node certificates and re-certifications reside at Click! and are available electronically, upon request by City.

3. Monthly maintenance

The following maintenance activities are conducted by Click! on behalf of the City:

3.1 Technicians measure each HFC I-Net return channel at each I-Net hub rack and document.
3.2 Technicians check and document forward transmitter signal levels.
3.3 If a return test channel deviates + or – 2db from initial hub receiver target level (documented in monthly I-Net Monthly tracking sheet), problem is corrected and documented.
3.4 Technicians check DC voltage on I-Net hub equipment.
3.5 All repairs done on I-Net equipment are documented, reside at Click! and are available, upon request by City.
3.6 Target levels for transmitters and receivers are documented, reside at Click! and are available, upon request by City.

Exhibit 3

I-Net Maintenance, Repair and Reporting

1.0 **PERFORMANCE MONITORING AND REPORTING**

1.1 Click! shall be responsible for performing surveillance on the I-Net, excluding Dark Fiber Connections.

2.0 **MAINTENANCE AND REPAIR OF I-NET SERVICES**

2.1 Except as provided in Article 4 of the Agreement, any Maintenance and repair required on the I-Net shall be performed by Click!.

2.2 Click! shall perform all Maintenance and repair functions on the I-Net, up to the Demarcation Point, twenty-four (24) hours per Day, seven (7) Days per week. This includes only trouble Maintenance (Service restoration) functions. Click!'s scheduled Maintenance will be performed during specified City Maintenance windows, except in the case of emergencies, in which case as much notice as is practicable will be given.

2.2.1 For Dark Fiber Connections, the City shall be responsible for notifying Click! of Dark Fiber Connection failures and the need for repair.

2.2.2 In the event the City notifies Click! of a Dark Fiber Connection failure, Click! shall, provided that Click! is given access to the Dark Fiber: (i) begin restoration within four hours after the faulty connection is identified; and (ii) use commercially reasonable efforts to restore the connection no later than eight hours after failure.

2.2.3 If a safety problem exists, the restoration of the Dark Fiber Connection will not take place until the safety problem has been satisfied.

2.3 Specifications. Maintenance and repair of the I-Net will be performed so as to meet the manufacturer's specifications.

2.4 Any Maintenance or repair function performed by Click! on the I-Net which will or could affect Service provided to I-Net Users will be coordinated and scheduled with City surveillance system operations as practical and feasible for Click!. City shall provide and update a list of City contacts for Maintenance and escalation purposes. All communication regarding the provision, installation, operation, Maintenance, and repair of the I-Net will be coordinated and conducted between the City and Click!.

I-Net Users must make all requests for Service, Maintenance and repair through the City and not directly with Click!

2.5 Response & Repair Times. Except as provided in this Agreement, in the event of a Service Outage, Click! is to have repair personnel, when site access is granted, on site within three (3) hour after receiving notification of the Service Outage from City, or autonomous monitoring from the Click! Network Services Assurance (NSA) or its future equivalent. Click! shall restore the Service as follows:

(i) Click!'s NSA will notify City's designated personnel within thirty (30) minutes of a I-Net outage alarm (excludes Dark Fiber). City is responsible for I-Net User notification.

(ii) Electronic Restoration: In the event of an electronic failure, Click! shall use its best efforts to restore service within 1 hour of arrival of maintenance personnel on site.

(iii) Fiber Cable Restoration: In the event of a cable failure, Click! shall begin cable restoral within three (3) hours after the faulty cable is identified. Click! shall use its best efforts to restore the cable no later than six (6) hours after failure.

2.6 Click! shall maintain a twenty-four (24) hour a Day, seven (7) Day a week point-of-contact for City to report I-Net troubles.

2.7 Equipment Spares. Except for HFC I-Net and Dark Fiber Connection Service, Click! will provide all Maintenance equipment spares plus repair and return of defected parts. In general, City and I-Net Users are not required to provide equipment storage space in City or I-Net User facilities over and above storage space available in I-Net User equipment racks.

2.8 Scheduled Maintenance.

2.8.1 Scheduled routine Maintenance will be performed during specified City maintenance windows and will be coordinated between Click! and City.

2.8.2 Maintenance of the I-Net which may jeopardize or require downtime of the Communications Network will normally be performed during the "Maintenance Window" of 12:00 midnight and 6:00 a.m. or a time mutually agreed to by City and Click!. City's Maintenance requests must be made at least 72 hours in advance unless otherwise agreed to by the Parties.

2.8.3 Click! maintenance personnel will notify City prior to beginning scheduled Maintenance work and must receive concurrence, which shall not be unreasonably withheld, to proceed. Click! personnel will notify City upon completion of scheduled Maintenance work and receive concurrence that all Service is fully operational.

2.9 Access to Equipment and Facilities.

2.9.1 Employees or agents of Click! shall have escorted access to any I-Net equipment or facilities at a City or I-Net User Premises, subject to I-Net User's or City's access and security regulations. These shall include, but not be limited to:

Proper Picture Identification
Click! Authorized Personnel List
Restricted Area Access Provisions
Accompaniment by I-Net User/City personnel
Click! employees or agents, while on City or I-Net User Premises, shall comply with the I-Net User and/or City rules and regulations.

2.9.2 Upon request, employees or agents of City shall be given escorted access to areas at Click! locations containing facilities and/or equipment associated with the I-Net , subject to Click!'s access and security regulations. These shall include, but not be limited to:

Proper Picture Identification
City Authorized Personnel List
Restricted Area Access Provisions
Accompaniment by Click! personnel

City employees or agents, while on Click! premises, shall comply with Click!'s plan rules and regulations.

2.9.3 City shall have the right to be present during Click! equipment testing, and during scheduled and non-scheduled Maintenance and repair activity. City will notify Click! in advance of such requests.

Exhibit 4

Ordering Procedures for I-Net Services

1. The City receives a service inquiry and issues an I-Net Service Application to the approved requesting agency.

2. The requesting agency completes application with desired date for activation and returns it to the City.

3. The City contacts Click! to review the application.

4. Click! shares inquiry with Broadband Services engineering to evaluate application, check for available network capacity, and contacts construction engineering for outside plant expansion estimation, if an extension of the network is required.

5. If the requesting agency is currently operating on the City's digital I-Net, and is requesting additional capacity, the existing equipment would need to be upgraded. If the network capacity can handle the upgrade request then Click!'s Broadband Services can complete the estimate and move to Step # 8.

6. If the request is not possible, Click! will discuss the inquiry results with the City.

7. Click! will contact construction engineering and Broadband Services to schedule a field visit with the City. Together they determine the best route for entering the Institution, and decide on the type and location of the equipment.

8. After the application is evaluated, the Broadband Service personnel will complete a network design and establish cost estimate for Broadband Services equipment, including the installation, testing and provisioning.

9. Construction engineering and Broadband Services completes the cost estimates, design and tentative construction schedule. The I-Net coordinator then compiles the cost estimates. After reviewing the information the estimate is totaled, summarized and provided to the City to distribute back to the requesting agency.

10. If at any time, there are questions about the estimate, design, or construction plans, the requesting agency has the opportunity to contact the City and coordinate a meeting to resolve any issues.

11. When the requesting agency approves the invoice and wishes for the work to begin, a network service agreement is signed with a service activation date by the City and Click! with the requesting agency.

12. Click! assigns the project a Job Order Number under the billable I-Net work order.

13. Broadband Services group will coordinate the ordering and the delivery of the Broadband Services equipment and its installation.

14. Construction Engineering to provide the fiber installation. Construction will also coordinate the installation between the outside of the institution to the demarcation point.

15. Some coordination may be needed to have the agency's maintenance department or contractor install a 2 inch conduit from the outside where the fiber optic meets the building to the inside where the demarcation location has been determined.

16. The construction department will then have a Job Order to provide the installation of the fiber optics and the splicing. This will include working with Click!'s fiber optic specialist to tie into the network and the splicing of the pigtails at the customer termination shelf.

17. Click! will track the construction cost and see that the fiber documentation is completed and on file for the network technicians and the City.

18. With completion of the fiber optic construction the Broadband Services group will handle the installation of the broadband Service Equipment and turn up the system.

19. After Click!'s Broadband technicians have had enough time to finalizes the circuit, provisioning and testing, they will notify Click! and inform him that the circuit is available for service.

20. Start of Service Date. For the Digital I-Net, "Start of Service Date" for Service shall be the later of (i) the date requested by City for Service to commence, or (ii) the date after Circuit testing and Acceptance has been completed per this Agreement. For the HFC I-Net, "Start of Service Date" for Service shall be the later of (i) the date requested by the City for Service to commence, or (ii) the date after the HFC node certification testing and Acceptance has been completed per this Agreement.

21. As the Service provisioning is complete, the final bill will be compiled by Click! and sent to the City for payment. When the payment is received, it will be deposited in the account of the billable I-Net work order.

Exhibit 5

Dedicated Transport Services and Service Descriptions for On-Net Services

1.0 Dedicated

Each Transport Service is dedicated to the City and I-Net User. Usable bandwidth for each Service is available to City for its use, twenty-four hours a Day, seven Days a week.

2.0 DS1 Service

DS1 Service is a dedicated, high capacity, full duplex channel with a line speed of 1.544 Mbps isochronous serial data having a line signal format of either Alternate Mark Inversion (AMI) or Binary 8 Zero Substitution (B8ZS) and either Superframe (D4) or Extended Superframe formats.

3.0 DS3 Service

DS3 Service is a dedicated, high capacity, full duplex channel with a line speed of 44,736 Mbps isochronous serial data having a line code of bipolar with three zero substitution (B3ZS). DS3 Service has the equivalent capacity of 28 DS1 Services at 1.544 Mbps.

4.0 OC3 Service

OC3 Service is a dedicated, point to point, high capacity, full duplex channel with a line speed of 155.52 Mbps synchronous serial data. OC3 Service has the equivalent capacity of 3 DS3 Services, 84 DS1 Services, or 2,016 DSO services.

5.0 OC12 Service

OC12 Service is a dedicated, point to point high capacity, full duplex channel with a line speed of 622.08 Mbps synchronous serial data. OC12 Service has the equivalent capacity of 4 OC3 Services, 12 DS3 Services, 336 DS1 Services.

6.0 OC48 Service

OC48 Service is a dedicated, point to point, high capacity, full duplex channel with a line speed of 2,488 Mbps synchronous serial data. OC48 Service has the equivalent capacity of 4 OC 12 Services, 16 OC3 Services, 48 DS3 Services, and 1,344 DS1 Services.

7.0 Ethernet Service

Ethernet Service is a dedicated packet transport service, conforming to the physical and data transport layers of the international communications model. The service may be

provided in point-to-point or point-to-multi-point configuration. The service bundles the transmission capacity of one to eight DS-1 services. The available bandwidth is set and tested per the requirements of the user.

Exhibit 6

I-Net Maintenance Costs

1. Digital I-Net Maintenance

The Digital I-Net is supported by a SONET (synchronous optical network) platform which is reliable and protocol-neutral for accommodating multiple transport methods. SONET is an industry standard that provides interoperability between different vendors' products, can carry higher level protocols including IP and has built-in support for ease of management and maintenance.

Each shelf and circuit installed, tested and documented by Click! shall receive the following:

A. Site visits (battery and power supply tests, inspection and verifying environment) at a rate of one hour every three months.

B. Upgrades of shelf operating system software twice per year at one hour each occurrence. These upgrades are required to add new features and capabilities, and remain consistent with all Click! Communications Network devices.

C. Upgrades of surveillance system software, once in the first year and as needed thereafter. These upgrades provide centralized monitoring features and capabilities consistent with all Click! Communications Network devices.

D. Network Service Assurance (NSA) provides 24 hours per Day/7 Days a week surveillance and monitoring equivalent to one half hour per month. Dispatch to address service and I-Net issues as needed.

E. Emergency response which includes replacing one common electronics card at a rate of once every three years and replacing one circuit interface card at a rate of once every three years for each circuit. This response also includes maintaining emergency replacement inventory.

F. Emergency readiness which includes technicians, vehicles, test equipment, tools and administration of same.

G. Telecordia Common Language licensing (CLLI / CLFI / CLCI / Clones) of circuits is included in the monthly fees.

2. HFC I-Net Maintenance

The HFC I-Net is a Hybrid Fiber-optic Coaxial system. Fiber strands carry optical signals to receivers (nodes), where they are converted to radio frequencies (RF). The return signals are then carried on coaxial cable to I-Net customer sites. The signals

travel both upstream and downstream from a site, enabling video to originate from either direction.

The fiber component of the HFC I-Net is unique from the fiber that makes up the Digital I-Net, in that the service ring fibers are dedicated by individual strand. The HFC fiber consists of strands mixed within the fibers used by Click!'s Communications Network for its own power and commercial applications. In contrast, the Digital I-Net fiber consists of separate sheaths of fiber. The exact strands of fiber assigned to the HFC I-Net are identified in documents approved by I-Net staff and retained in files held by Click!

The City has paid for and has ownership rights for the HFC Hub electronics, ADC nodes, coaxial cable runs from the ADC nodes to termination points at I-Net customer sites and user rights to the HFC fibers. The termination point is usually identified as the ground block. The City contracts with Click! to supply power to the ADC nodes (and potentially amplifiers), and to maintain and repair the HFC I-Net.

The fee structure described herein, assumes one shared power supply per node and two poles with exclusive I-Net attachments for every node. There is no additional charge for nodes serving more than one I-Net user site. Coaxial cable mileage and the HFC I-Net components used for billing purposes are identified by the Parties upon completion of site construction.

HFC maintenance costs includes I-Net design and documentation, maintaining coaxial and fiber cables, HFC nodes, powering systems and related Hub video transport equipment. Click! provides resources necessary for the maintenance and availability of the City's HFC I-Net.

3. I-Net Fiber Maintenance:
The I-Net has over 6,000 single fiber miles within the same cable sheath as Click!'s Communications Network. Click! offers the City the benefit of incremental costs for technical services and maintenance on the I-Net, which increases with the addition of institutions benefitting from I-Net services. The I-Net fiber maintenance costs are related to fiber constructed in easements and along rights-of-way and the ongoing maintenance involved with fiber relocations, pole maintenance, fiber management and documentation, and the necessary resources available to resolve fiber issues 24-hours a Day/ 7-Days a week.

4. I-Net Fixed and Variable Monthly Costs:
City shall remit to Click! the following maintenance charges, as described herein:

A. Administration/Management:
Fixed charges cover Click! staff time to manage, coordinate, track and bill monthly I-Net services.

$480.00 per month, subject to CPI adjustments per Section 5.1.B(iii).

B. Monitoring and Emergency Readiness:
Fixed charges cover Click!'s monitoring of fibers that support I-Net services, personnel dedicated to emergency readiness response, when required, and necessary equipment available 24/7.

$2,465.00 per month, subject to CPI adjustments per Section 5.1.B(iii).

Variable charges cover emergency readiness and repair of Multiplexers

$185.00 per month*, per multiplexer, subject to CPI increases per Section 5.1.B(iii).

C. General Operating Costs:
Fixed charges cover Click!'s fiber management system dedicated to the I-Net, including documentation of fiber configuration and planned and unplanned fiber relocations.

$1,100.00 per month, subject to CPI adjustments per Section 5.1.B(iii).

Variable charges cover Digital I-Net facility space in Hubs, electricity charges for Digital I-Net equipment in Hubs, Tacoma Public Schools consultation, software and hardware to support Multiplexers and Telecordia standard naming of circuits.

$1,800.00 per month*, subject to CPI adjustments per Section 5.1.B(iii).

Additional variable charges cover HFC I-Net facility space in Hubs, power for HFC I-Net equipment in Hubs and electricity charges for power supplies dedicated for HFC I-Net equipment.

$1,020.00 per month*, subject to CPI adjustments per Section 5.1.B(iii).

D. Preventative Maintenance:
Fixed costs include fiber continuity and termination testing, splice case inspections and repairs.

$390.00 per month, subject to CPI adjustments per Section 5.1.B(iii).

Variable costs include preventative maintenance routines on 22 multiplexers and the replacement of 136 batteries.

$810.00 per month*, subject to CPI adjustments per Section 5.1.B(iii).

*all variable costs will increase/decrease with changes in circuit counts, space in facilities, facility locations and components dedicated to I-Net services. Following City's request for such changes, Click! will provide written notice/direct quote to City of increase/decrease of any associated changes in variable costs.

E. Third party consultation and consultation beyond the normal course of business as requested by City will be billed as Direct Costs per Section 5.1.D of the Agreement.

5. Emergency Maintenance activities to be billed time and materials by Click! to the City, include:

A. Repairs and/or facilities replaced due to storms, natural disasters, car/pole accidents, vandalism or other required repair due to conditions out of Click!'s control.

B. Overhead to underground conversions.

C. Fiber relocations.

EXHIBIT 7

CLICK! NETWORK I-NET INSTALLATION WORK FLOW CHART

120-Day I-Net Service Order Path

"I-Net Facilities Not in Place, Click! Construction Required"

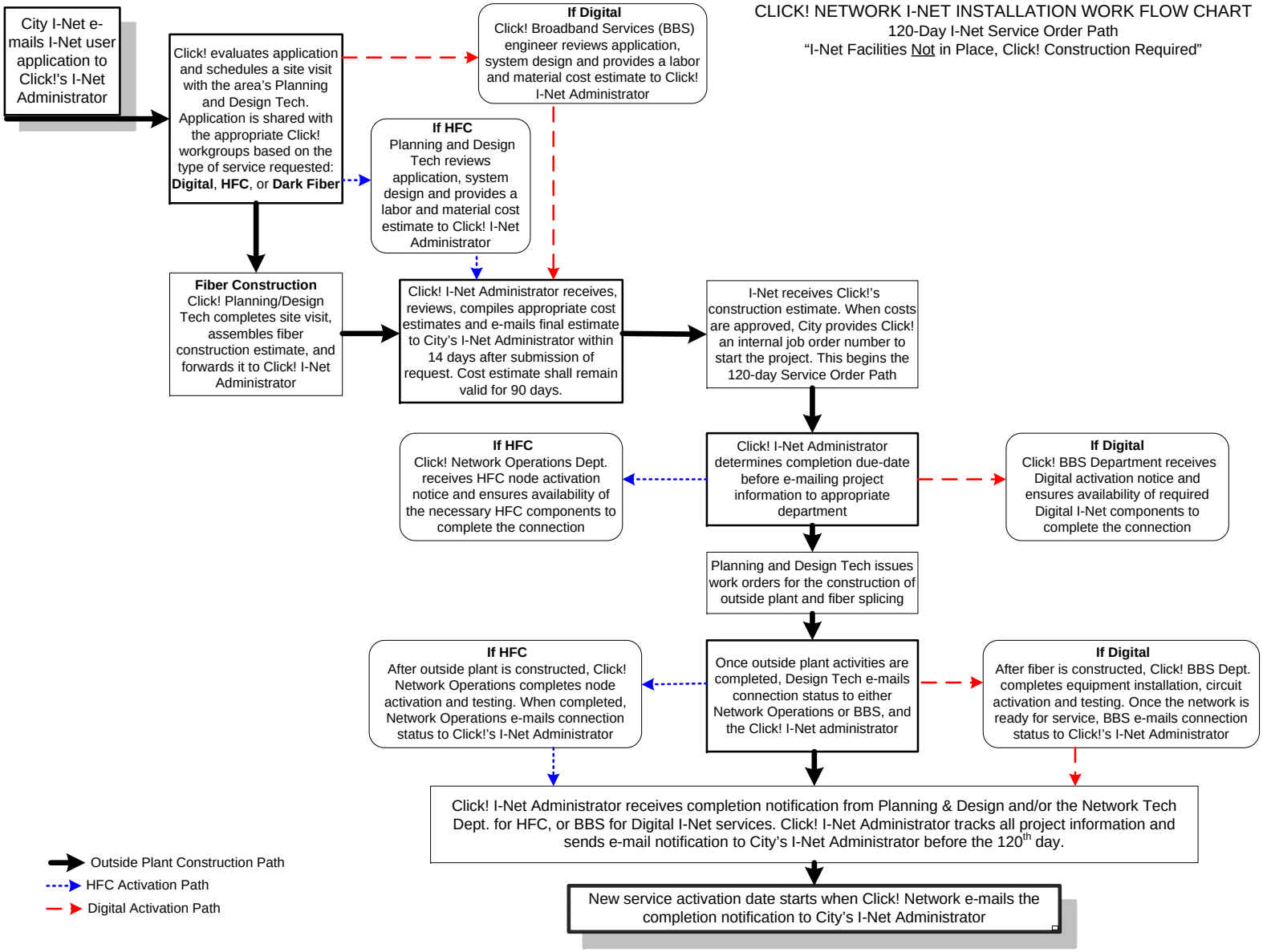

Exhibit 8

HFC I-Net Maintenance Schedule

Hub Maintenance – Monthly:

General hub maintenance: generators, housekeeping, etc.
Check return path receivers: RF level out, DC reference voltages
Check laser transmitter inputs
Check power supply voltages: 24V DC, -12V DC and +12V DC
Record readings and store in City's I-Net database

Power Supplies – Semi-Annual:

Check battery condition
Check standby functionality
Document all voltages
Check general power supply cabinet and module condition

Node Checks – Semi-Annual:

At Node

Document forward and return light levels
Measure and record RF input and output levels
Measure and record return channel levels at return transmitter
Measure and record AC and DC voltages
Perform thorough physical inspection of node

At Hub

Check return path receivers: RF level out, DC reference voltages
Check laser transmitter inputs and adjust if necessary
Check power supply voltages: 24V DC, -12V DC and +12V DC
Record readings and store in City's I-Net database

Fiber Splice Case Inspection – Yearly:

Splice case
Snowshoes
Hanger brackets
Cable
Pressurization test
Splice case integrity

Exhibit 9

DESCRIPTION OF I-NET FIBER, FACILITIES AND COMPONENTS AND LIST OF INSTITUTIONAL NETWORK LOCATIONS/USERS

Click!'s 1998-2009 support of I-Net

Overview:

Section 7 of the 1998 Tacoma City Light franchise-like agreement ("1998 Agreement") guided City's negotiated benefit of an institutional network, built while Click! constructed its Communications Network in the City of Tacoma. The 1998 Agreement set forth the procedure which allowed the City to request a connection, described how sites were to be designed, constructed and tracked and what costs were reimbursable.

The following information documents the I-Net work performed by Click!, the City's capital investment and Maintenance costs paid toward the I-Net, as of the Effective Date of the Cable Agreement.

Backbone and service ring construction:

Click!'s initial build-out in the City included constructing 175 miles of I-Net fiber in the Communications Network backbone and 12 service rings for a total City investment of $1,244,339. The chart below shows the I-Net's dedicated fiber count (**first number, bolded**) and the total Communications Network fiber count (second number) in the backbone and each service ring. Spare I-Net fibers per node are also identified.

	Backbone	NW 1	NW 2	NW 3	NW 4	NW 5	SE 1	SE 2	SE 3	NE 1	NE 2	NE3	SW 1
CityNet fibers/ Total fibers	**36**/180 **6** spare	**22**/96 11 spare	**32**/96 20 spare	**44**/108 14 spare	**48**/144 23 spare	**32**/96 24 spare	**32**/96 20 spare	**34**/108 26 spare	**32**/96 20 spare	**36**/132 27 spare	**15**/72 11 spare	**15**/72 11 spare	**36**/132 20 spare

Individual I-Net site construction:
The number of I-Net sites connected from service rings are represented in the chart below.

Year	# of sites constructed	City's reimbursement to Click! for construction	# of connections Some sites have multiple connections and multiple circuits	Maintenance paid by City
1999	5	$ 163,334	5	0
2000	19	$ 18,918	18	$ 25,717
2001	62	$1,104,081	68	$ 69,272
2002	26	$ 470,869	27	$ 99,691

Year	# of sites constructed	City's reimbursement to Click! for construction	# of connections Some sites have multiple connections and multiple circuits	Maintenance paid by City
2003	9	$ 62,500	8	$ 69,270
2004	10	Data not available	12	$114,349
2005	5	$ 48,136.76	5	$102,644
2006	17	$182,742.11	14	$ 98,290
2007	1	$ 3,925.33	1	$106,230
2008	3	$ 11,884.39	3	$ 54,932
2009	5	Donnie should have this number via SAP	-4	$104,999.24

Cost tracking:
From 1999 – 2003, I-Net capital work was tracked manually by Ed Gookin, Click! Technical Administrator. Beginning in 2004, capital work orders have been tracked via SAP. Circuit provisioning, Maintenance tracking and billing are handled manually by Click!'s Wholesale Customer Service department.

I-Net Capital investment summary:

Backbone and service ring investment	$1,244,339
Site construction investment (1999-2003)	$1,292,583
Site construction investment (2004)	unavailable
Site construction investment (2005-200-9)	$ (add const. costs for '09)
Maintenance costs (2000-2009)	$ $845,394
Total	**$** (minus 2004 capital construction costs)

I-Net Maintenance costs:
From 1999-2009 I-Net maintenance costs totaled $ $845,394

Two distinctive institutional networks:

The I-Net is made up of two distinct networks - one is digital and the other is hybrid fiber coaxial (HFC). Digital connections are linked via fiber and transport data and voice services via DS-1 circuits, GigE circuits and Dark Fiber for Tacoma Public School Districts' use. These connections are capable of video, voice and data transport. HFC connections are linked via fiber and coax and are used primarily to transport video signals to and from the Master Control Center at 1224 Martin Luther King, Jr. Way at the Municipal Services Center.

Dark fiber connections:

As of the Execution Date of this Agreement, the City had called for the transitioning of 9 SONET circuits (monitored and maintained by Click!) to the I-Net circuits onto Dark Fiber connections (maintained by the City's technicians or a third party).

Connections outside of the City of Tacoma:

As of the Execution Date of this Agreement, at the direction of the City, Click! expanded the I-Net to include 5 sites outside of City of Tacoma boundaries – Wainwright and Whittier Elementary Schools in Fircrest, Fife City Hall in Fife and Pierce County District Court in Pierce County. The fifth site, Clover Park Technical College in Lakewood, is outside of Tacoma Power's service area and was constructed via an interlocal agreement between the City and the City of Lakewood. Potential sites, outside of Tacoma Power's service area will be considered on a case-by-case basis.

The chart below specifies: 1) the fiber rings; 2) associated ring fiber count; 3) the precise number of I-Net fibers per ring; 4) the total ring fiber footage; 5) the total single fiber footages; and 6) the number of miles of fiber per ring.

Fiber Rings	Ring Fiber Count	I-Net Fibers Per Ring	Total Ring Footage	TOTAL Single Fiber footages	Miles Per Ring
Back Bone	180	36	228,210	8,215,560	1,55.98
NW-1	96	22	49,854	1,096,788	207.73
NW-2	96	32	49,508	1,584,256	300.05
NW-3	108	44	74,854	3,293,576	623.78
NW-4	144	48	85,165	4,087,920	774.23
NW-5	96	32	48,828	1,562,256	295.93
SE-1	96	32	47,000	1,504,000	284.85
SE-2	96	34	68,000	2,312,000	437.88
SE-3	96	32	67,000	2,144,000	406.06
NE-1	132	35	110,627	3,871,945	733.32
NE-2	96	15	35,999	539,985	102.27
SW-1	132	36	68,454	2,464,344	466.73
Main Library	24	24	1,596	38,304	7.25
Wheelock	12	12	1,834	22,008	4.17
Swasey	12	12	1,746	20,952	3.97
Moore	12	12	2,795	33,540	6.35
King	12	12	1,936	23,232	4.40

Current Total I-Net fiber footage	32,814,906
Miles of single fibers for the City I-Net	6,214.94

List of Active and Wired Institutional Network Locations/Users **(alphabetically)**

* represents wired but currently non-active sites, as of Agreement date

1	Arlington Elementary School	3002 South 72nd Street	98409	SCH
2	Asphalt Plant, Street Maintenance	3210 South Center Street	98409	GOV
3	Baker Middle School	8320 South “I” Street	98408	SCH
4	Bates Studio	2320 South 19th Street	98405	COL
5	Bates Technical College (Downtown Campus)	1101 South Yakima Avenue	98405	COL
6	Bates Technical College (South Campus)	2201 South 78th Street	98409	COL
7	Bergeson Terrace	5713 South Orchard Street	98409	THA
8	Birney School Elementary School	1202 South 76th Street	98408	SCH
9	Blix Elementary School	1302 East 38th Street	98404	SCH
10	Boze Elementary School	1140 East 65th Street	98443	SCH
11	Browns Point Elementary School	1526 51st Street Northeast	98422	SCH
12	Bryant Montessori School	717 South Grant Avenue	98405	SCH
13	Carlton Building	1551 Broadway Street	98402	GOV
14	Central Administration Building (CAB)	601 South 8th Street	98405	SCH
15	Central Police Substation	1525 Martin Luther King Jr. Way	98405	GOV
16	Centre at Norpoint	4818 Nassau Avenue Northeast	98422	PRK
17	Cheney Stadium	2526 Bantz Boulevard	98405	GOV
18	City's Reemployment Center	3650 South Cedar Street	98405	GOV
19	Click! Network DTN Hub	1111 South Altheimer Street	98405	GOV
20	Click! Network NE Hub	2431 Alexander Avenue East	98422	GOV
21	Click! Network NW HUB	2402 North Pearl Street	98406	GOV
22	Click! Network SE Hub	6301 East North Street	98404	GOV
23	Click! Network SW Hub	4102 South 74th Street	98409	GOV
24	Clover Park Technical College (KRCC)	4400 Steilacoom Boulevard	98499	COL
25	County City Building	930 Tacoma Avenue South	98405	GOV
26	Crescent Heights Elementary	4110 Nassau Avenue Northeast	98422	SCH
27	Cushman Fire Communication Tower	1453 12th Street South	98405	GOV
28	DeLong Elementary School	4901 South 14th Street	98405	SCH
29	Department of Assigned Council	949 Market Street South	98402	GOV
30	Downing Elementary School	2502 North Orchard Street	98406	SCH
31	Eastside Pool	3525 East “L” Street	98404	PRK
32	Edison Elementary School	5830 South Pine Street	98409	SCH
33	Emergency Management Channel (EOC)	421 South Fawcett Avenue	98402	GOV
34	Environmental Services	302 East 11th Street	98421	GOV
35	Evergreen State College	1210 6th Avenue	98405	COL
36	Fawcett Elementary School	126 East 60th Street	98443	SCH
37	Fern Hill Elementary School	8442 South Park Avenue	98444	SCH
38	Fife City Hall	5411 23rd Street East, Fife WA.	98424	GOV
39	Fire Station No. 5	3301 Ruston Way	98402	FIR
40	Fleet Services	3639 South Pine St.	98409	GOV
41	Fort Nisqually	5400 North Pearl Street	98407	PRK
42	Franklin Elementary School	1402 South Lawrence Street	98405	SCH
43	Gault Middle School	1115 East Division Lane	98404	SCH
44	Geiger Elementary School	621 South Jackson Avenue	98405	SCH
45	Grant Elementary School	1018 North Prospect Street	98406	SCH
46	Graudronie Middle School	4902 South Alaska Street	98444	SCH
47	Gray Middle School	6229 South Tyler Street	98409	SCH
48	Harrison Firing Range	101 McMurray Road	98422	POL

49	Henry Foss High School	2112 South Tyler Street	98405	SCH
50	Hillside Office Tacoma Housing Authority	2520 South "G" Street	98405	THA
51	Hunt Middle School	6510 South 10th Street	98465	SCH
52	International Glass Museum Garage	1801 Dock Street	98421	GOV
53	Jason Lee Middle School	602 North Sprague Avenue	98403	SCH
54	Jefferson Elementary School	4302 North 13th Street	98406	SCH
55	Kandle Police Station	2323 North Shirley Street	98406	PRK
56	King Library *	1902 South Cedar Street	98405	LIB
57	Larchmont Elementary School	8601 East “B” Street	98445	SCH
58	Lincoln High School	701 South 37th Street	98408	SCH
59	Lister Elementary School	2106 East 44th Street	98404	SCH
60	Lowell Elementary School	810 North 13th Street	98403	SCH
61	Madison School & Transportation facility	3110 South 43rd Street	98409	SCH
62	Main Library *	1102 Tacoma Avenue South	98405	LIB
63	Manitou Community Center *	4806 South 66th Street	98409	PRK
64	Manitou Park Elementary School	4330 South 66th Street	98409	SCH
65	Mann Elementary School	5211 South “K” Street	98408	SCH
66	Mary Lion Elementary School	101 East 46th Street	98443	SCH
67	Mason Middle School	2812 North Madison Street	98407	SCH
68	McCarver Elementary School	2111 South “J” Street	98405	SCH
69	McKinley Elementary School	3702 McKinley Avenue	98404	SCH
70	Meeker Middle School	4402 Nassau Avenue Northeast	98422	SCH
71	Metro Parks Headquarters	4702 South 19th Street	98405	PRK
72	Moore Library *	215 South 56th Street	98408	LIB
73	Mount Tahoma High School	4634 South 74th Street	98409	SCH
74	Municipal Services Center	1224 Martin Luther King Jr. Way	98405	GOV
75	Narrows Bridge	Tacoma Narrows Bridge	98406	GOV
76	Nature Center at Snake Lake	1919 South Tyler	98405	PRK
77	Northeast Elementary School	5412 29th Street Northeast	98422	SCH
78	Northeast Police Substation (Norpoint)	4731 Norpoint Way Northeast	98422	GOV
79	North End Sewer Treatment Plant	4002 North Waterview	98407	GOV
80	NW Pearl Radio Tower	26th Street North and Pearl Street	98406	GOV
81	Oakland Alternative High School	3319 South Adams	98409	SCH
82	Park Avenue Elementary School	6701 Park Avenue South	98408	SCH
83	Peoples Community Center	1602 Martin Luther King Jr. Way	98405	PRK
84	Perkins Building *	1101 "A" Street	98402	GOV
85	Pierce County District Court	1902 South 96th Street	98445	GOV
86	Pierce County EOC / LESA	2401 South 35th Street	98409	GOV
87	Pierce County Fawcett Avenue offices	1111 Fawcett Avenue	98405	GOV
88	Pierce County Health Department	35th Street & Union	98409	GOV
89	Pierce County Offices	1102 Broadway Avenue	98402	GOV
90	Point Defiance Elementary School	4330 North Visscher Street	98407	SCH
91	Point Defiance Park Maintenance Shop	5402 North Shirley Street	98407	PRK
92	Point Defiance Zoo & Aquarium	5400 North Pearl Street	98407	PRK
93	Police Headquarters	3701 South Pine Street	98405	POL
94	Portland Avenue Community Center	3513 Portland Avenue East	98404	PRK
95	Portland Avenue Sewer Treatment Plant	2201 Portland Avenue	98421	GOV
96	Professional Development Center (PDC)	6501 North 23rd Street	98406	SCH
97	Reed Elementary School	1802 South 36th Street	98408	SCH
98	Remann Hall	5501 6th Avenue	98406	SCH
99	Rhodes Center	915 Broadway Avenue	98402	GOV
100	Roosevelt Elementary School	3550 East Roosevelt Avenue	98404	SCH
101	Salishan Tacoma Housing Authority	1728 East 44th Street	98444	THA

102	Sector Four Police Substation	3524 McKinley Avenue	98404	POL
103	Sector Three Police Substation	1501 South 72nd Street	98408	GOV
104	Sector Two Police Substation	5136 North 26th Street	98406	GOV
105	Sheridan Elementary School	5317 McKinley Avenue East	98404	SCH
106	Sherman Elementary School	4416 North 38th Street	98407	SCH
107	Skyline Elementary School	2301 North Mildred Street	98406	SCH
108	South End Neighborhood Center	7802 South “L” Street	98408	PRK
109	South Park Community Center	4851 South Tacoma Way	98409	PRK
110	Stadium High School	111 North “E” Street	98403	SCH
111	Stafford Elementary School	1615 South 92nd Street	98444	SCH
112	Stanley Elementary School	1712 South 17th Street	98405	SCH
113	Stewart Heights Pool	402 East 56th Street	98443	PRK
114	Stewart Middle School	5010 Pacific Avenue	98408	SCH
115	Swasey Library *	7001 6th Avenue	98406	LIB
116	Tacoma Convention Center	1500 Broadway	98402	GOV
117	Tacoma Dome	2727 East “D” Street	98421	GOV
118	Tacoma Housing Authority Main Office	901 South "L" Street	98405	THA
119	Tacoma Municipal Building	747 Market Street	98402	GOV
120	Tacoma Municipal Building North	733 Market Street	98402	GOV
121	Tacoma Public Utilities	3516 South 35th Street	98409	GOB
122	Titlow Lodge Community Center	8425 Sixth Avenue	98465	PRK
123	Truman Middle School	5801 North 35th Street	98407	SCH
124	TPS Union Street Site (B&G, Purchasing, Food Service, P&C)	3321 South Union Avenue	98409	SCH
125	University of Tacoma Walsh Gardner Building	1901 Pacific Avenue	98402	COL
126	Vashon Island Ferry Dock	5400 North Pearl Street	98407	GOV
127	Wainwright Elementary School	130 Alameda Avenue	98466	SCH
128	Washington Elementary School	3701 North 26th Street	98407	SCH
129	Wheelock Library *	3722 North 26th Street	98406	LIB
130	Whitman Elementary School	1120 South 39th Street	98408	SCH
131	Whittier Elementary School	777 Elm Tree Lane	98466	SCH
132	Willard Staff Resource Center *	3201 South D Street	98408	SCH
133	Wilson High School	1202 North Orchard	98406	SCH
134	Wrights Park Community Center	501 South "I" Street	98405	PRK

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