

## AGREEMENT FOR STATE ADMINISTRATION OF LEASEHOLD EXCISE TAX

THIS AGREEMENT is entered into by and between the City of Edgewood (City) and the State of Washington Department of Revenue (Department) for the administration of a Local Leasehold Tax. This Agreement is effective June 1, 2010.

This Agreement is premised upon the following:

A. The Legislature of the State of Washington has by RCW 82.29A.040 authorized cities and counties to impose a local leasehold excise tax, and

B. RCW 82.29A.080 provides that a city imposing a leasehold tax by ordinance shall contract with the Department for the administration and collection of said taxes; and

C. The City has by ordinance, copy attached hereto, elected to impose a leasehold tax and to contract with the Department for the collection of the tax.

NOW, THEREFORE, the parties agree as follows:

1. Administration of Local Leasehold Excise Tax. The Department shall exclusively perform all functions incident to the administration and collection of the taxes imposed by said ordinance, other than criminal prosecutions.
2. Administration Fee. The Department shall retain from taxes so collected for leasehold tax the amount of two percent as expense of administration and collection. Said amount shall be subject to review during January of each year.
3. Deposit with State Treasurer. The remainder of said taxes so collected shall be deposited by the Department in the Local Leasehold Excise Tax Revolving Fund under the custody of the State Treasurer.
4. Department Laws and Rules. The Department shall apply the provisions contained in chapters 82.02 and 82.32 RCW and the Department's rules and regulations promulgated pursuant to RCW 82.32.300, as the same exist or may hereafter be amended. The Department shall adopt additional rules and regulations, in accordance with the State Administrative Procedure Act, to facilitate the administration and collection of the local taxes as it may deem necessary or desirable.
5. Administration with State Leasehold Excise Tax. The Department shall perform its duties hereunder so that as far as possible the local leasehold excise tax adopted by the city shall be administered and collected in a manner which is as consistent and uniform as possible with the state leasehold excise tax and

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MISCELLANEOUS TAX

facilitates the imposition of the local leasehold excise tax upon individual taxable events simultaneously with the imposition of the state leasehold excise tax.

6. Examination of Records. The City shall have the right from time to time to examine the records of the Department as they concern taxpayers subject to the aforementioned ordinance, subject to the requirements of RCW 82.32.330.
7. Allocations to State Treasurer. The allocation of local leasehold excise tax collections will be sent by the Department to the State Treasurer within 60 days after the close of the first bimonthly period for which the tax is imposed and thereafter on a bimonthly basis.
8. Refunds and Credits. All refunds and credits for local leasehold excise tax made by the Department shall be charged to the City.
9. Redistributions. The Department shall require redistribution to the affected counties and cities, of any tax, penalty and interest distributed to a county or city other than the county or city entitled thereto but such redistribution shall not be made as to amounts originally distributed earlier than three bimonthly periods prior to the bimonthly period in which the Department obtains knowledge of the improper distribution.
10. Taxpayer Information. The Department shall provide taxpayer information, documentation and reports to the City in accordance with the disclosure limitations of RCW 82.32.330. Authorized representatives of the City requesting and receiving confidential information will sign a Department Secrecy Clause and comply with RCW 82.32.330.
11. Hold Harmless. To the extent permitted by law, the City agrees to defend and hold harmless the Department and the State of Washington from claims that challenge the authority of the City to impose the leasehold excise tax. The City agrees that in the event a legal challenge is brought, the Department shall not be obligated to represent the City or otherwise to defend its position in any proceeding relating to such challenge.
12. Amendments. The parties to this Agreement will notify each other in a timely manner if they find it necessary to request an amendment to this Agreement. No amendment shall be effective unless signed in writing by personnel authorized to bind each of the parties.
13. Records Maintenance. The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs or activities expended by any party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of any party, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books,

records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

14. Communications, Notice and Contract Management. The parties agree to establish and maintain open lines of communication and to work cooperatively in order to improve administration and public understanding of the City's local leasehold excise tax. Any party may initiate a meeting, to be held at a mutually convenient time and place, to share information and to discuss matters related to administration and collection of the tax.  
The program manager for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Program Manager for the Department of Revenue is: *Steve Bren, PO Box 47489, Olympia, WA 98504-7489, telephone 360 570-3240.*

The Program Manager for the City is: *Janet Caviezel, Finance Director/City Clerk, 2224 104<sup>th</sup> Avenue East, Edgewood, WA 98372-1513, telephone 253-952-3299.*

15. Dispute Resolution. The parties to this Agreement are committed to resolving any dispute that may arise during the administration of this Agreement prior to initiating litigation. In the event that a dispute arises under this Agreement, the parties by mutual agreement may elect non-binding mediation, before a mutually agreed upon mediator, with each party responsible for a proportionate share of the costs. Unless the parties agree otherwise, the mediation shall be conducted in Pierce County or Olympia, Washington. This remedy is not intended to be exclusive of other remedies existing in law, by statute or otherwise. The parties each agree that they will not commence litigation against other parties to this Agreement before the parties have participated in and completed the mediation process described in this section, unless irreparable harm will result. If litigation is filed by any party to enforce any of the provisions of this Agreement, the venue of the action shall be in the Superior Court for Thurston County.
16. Independent Capacity. The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

17. Governance. This Agreement is entered into pursuant to and under the authority granted by the laws of the State of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order: a. applicable state and federal statutes and rules; and b. any other provisions of the Agreement, including materials incorporated by reference.

18. Waiver. A failure by any party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

19. Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

20. Entire Agreement. This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto, unless incorporated by reference.

21. Effective Date and Automatic Renewal. This Agreement shall take effect on the June 10, 2010, and shall thereafter be automatically renewed on December 31 of each year unless one of the parties gives written notice of termination on or before November 1 of each such year.

IN WITNESS WHEREOF, the State of Washington Department of Revenue and the City of Edgewood have executed this Agreement as of the day and year written below.

9/22/10  
Date

Cindi Holmstrom  
Cindi Holmstrom, Director  
Department of Revenue

8/31/2010  
Date

Mark D. Bauer  
Mark D. Bauer, City Manager  
City of Edgewood