

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 2-24-14

AGENDA ITEM: Facility Use Agreement- AllianceOne	AGENDA SECTION:	
PREPARED BY: Suzanne Elsner, Court Administrator <i>SJE</i>	AGENDA NUMBER:	
ATTACHMENTS: Amendment to Facility Use Agreement	APPROVED BY:	
	<table border="1"> <tr> <td data-bbox="812 669 1161 737">MAYOR</td> <td data-bbox="1161 669 1341 737">CAO</td> </tr> </table>	MAYOR
MAYOR	CAO	
BUDGET CODE:	AMOUNT:	

AllianceOne/Signal Corporation currently uses the Marysville Municipal Court front counter space as a paystation for those who owe money to the court that is currently in collections. The agreement needed to be updated to include extension and lease tax payment information.

RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to sign the amendment to the facility use agreement.
COUNCIL ACTION:

FACILITIES USE AGREEMENT

The City of Marysville, a non-charter code city of the State of Washington, (hereafter "City") and AllianceOne Receivables Management, Inc., a corporation of the State of Delaware, (hereafter "AllianceOne") enter into this Agreement for the use by the AllianceOne of certain facilities owned by the City, under the terms and conditions of this Agreement.

Whereas, the City owns and controls the use of facilities at the Marysville Municipal Court at 1015 State Avenue, Marysville, WA 98270 (hereafter "Facilities"), which Facilities are more particularly described below; and

Whereas, AllianceOne is the Municipal Court's collection agency and desires to use said Facilities; and

Whereas, the City is able and willing to make said Facilities available for such use by AllianceOne; and

Whereas, the parties entered into a FACILITIES USE AGREEMENT signed by the Mayor on April 13, 2009 for the period of April 20, 2009 through December 31, 2009 with renewals and amendments for subsequent years; and

Whereas, the parties wish to agree to the terms and conditions as set forth below for the period commencing of January 1, 2014, ~~through December 31, 2014~~;

Now, therefore, in consideration of the above representations and the terms and conditions set forth herein, the parties agree as follows:

~~A. For the Term of January 1, 2014 through December 31, 2014 the parties agree to the terms and conditions in the FACILITIES USE AGREEMENT signed by the Mayor on April 13, 2009 as attached in Exhibit A and incorporated by reference.~~

AB. For the Term commencing January 1, 2014 the parties agree to the following terms and conditions:

1. GENERAL AGREEMENT.

For being permitted to use the Facilities for the purposes and activities stated below, AllianceOne agrees to abide by the terms and conditions set forth in this Agreement.

2. AUTHORIZED REPRESENTATIVES/NOTICE

Any notice, request, or demand or other communication related to this Agreement shall be given to the parties' authorized representatives as set forth above. Receipt of any notice shall be deemed effective three (3)

days after deposit of written notice in the U.S. mail with proper postage and address. The parties' authorized representatives for the purposes of this Agreement are as follows:

City of Marysville

Authorized representative: Suzanne Elsner, Municipal Court Administrator
Address: City of Marysville, 1015 State Avenue, Marysville, WA 98270
Phone : 360-363-8054
Fax: 360-657-2960
Email: selsner@ci.marysville.wa.us

AllianceOne Inc.

Authorized representative: Renee Linnabary, Senior Vice President
Address: 6565 Kimball Drive, Suite 200, Gig Harbor, WA 98335
Phone: 253.620.2209
Fax: 253.620.2232
Email:

3. FACILITIES.

Subject to the terms and conditions of this Agreement, the City hereby grants AllianceOne permission to use the following Facilities located in the Municipal Court at 1015 State Avenue in the City of Marysville:

Sufficient front counter space, as determined by the City, for one full-time person and one part-time person and office equipment, as necessary to collect Municipal Court fines and related costs.

4. PERIOD AND TIME OF USE/RENEWAL

a. The permission hereby given shall be for the following duration and time:

From January 1, 2014, during the hours of 8:00 am- 4:30 pm, Monday through Friday, excluding court holidays, until December 31, 2014.

b. This agreement shall automatically renew for one year periods of time subject to the TERMINATION PROVISIONS in paragraph 19 below.

5. PURPOSES AND ACTIVITIES.

The Facilities may be used for the purpose of accepting collection agency payments.

6. CONSIDERATION/PAYMENT/LEASEHOLD EXCISE TAX.

In consideration for the use of the Facilities as set forth in this agreement, AllianceOne shall pay to the City the following amount in the manner set forth:

- a. Seven Hundred Fifty Dollars (\$750.00) per month.
- b. Payment is due on or before the 1st day of each month for AllianceOne's use of the facility for that month. Payments made after the 15th of the month are subject to a \$50 late fee and may result in breach of this agreement and termination under paragraph 19 below.
- c. Interest.
In the event AllianceOne fails to pay to the City all sums required hereunder, at the time or times specified herein, the amounts so due and unpaid shall from the due date bear interest at the rate of twelve percent (12%) per annum or such lower rate as may then be the maximum rate of interest authorized by Washington or Federal law.

d. Leasehold Excise Tax:

i. Leasehold Excise Tax. As additional rent, AllianceOne shall pay to the City with the monthly rent a sum equal to 12.84% of the monthly rent for leasehold excise tax. Said additional rent rate shall be modified in accordance with any change in the leasehold excise tax rate occurring during the term of this lease, or any extension or holdover thereof, which modification shall be effective on the date the tax rate changes. City shall give written notice to AllianceOne of any change in the leasehold excise tax rate.

ii. AllianceOne shall pay before delinquency any and all taxes, assessments, license fees, and public charges levied, assessed or imposed and which become payable during the term of this Agreement upon AllianceOne's fixtures, furniture, appliances and personal property installed on or located in the City Premises.

iii. AllianceOne agrees to pay the amount of all taxes levied upon or measured by the rent payable hereunder, whether as a sales tax, transaction privilege tax, leasehold excise tax, or otherwise. Except as provided in paragraph 6.(d) (i) above, such taxes shall be due and payable at the time the same are levied or assessed.

iv. Leasehold Excise Tax paid by City for 2011 through 2013. As additional rent for 2014, AllianceOne agrees to reimburse the City for Leasehold Excise Taxes paid by the City for the years 2011 through 2013 in the amount of \$3,147.30. Said payment may be made in one installment, due by February 1, 2014 or quarterly installments or in 12 monthly installments. Said amount is due and owing regardless of whether the parties terminate this agreement pursuant to paragraph 19 below.

7. INGRESS/EGRESS:

All portions of the sidewalks, entries, doors, passages, vestibules, halls, corridors, stairways, passageways, and all ways of access to public utilities of the premises must be kept unobstructed by AllianceOne and must not be used by AllianceOne or its patrons for any purpose other than ingress to or egress from the premises.

8. CONDITION OF FACILITIES.

AllianceOne accepts the Facilities as being clean and in good condition and agrees to keep the premises in the same condition as when received, reasonable wear and tear excepted.

9. QUIET ENJOYMENT.

AllianceOne shall not permit any waste upon or to the Facilities or engage in any activity that is unlawful or that constitutes a nuisance or that disturbs the quiet enjoyment of the ongoing activities of the City. Further, AllianceOne shall not disturb the quiet enjoyment of adjacent facilities.

10. TEMPORARY EQUIPMENT AND SIGNS.

Temporary equipment and signs may be placed upon City facilities only with the prior approval of the City's authorized representative. AllianceOne shall remove all such temporary equipment and signs when not using the Facilities.

11. ALTERATIONS.

No alterations shall be made to the Facilities without the written approval of the City. Any alterations shall be at the sole expense of the AllianceOne. Any alterations of the premises except movable furniture and trade fixtures shall become, at once, a part of the realty and belong to the City.

12. LIABILITY.

AllianceOne shall hold harmless, defend, and indemnify the City and its officers, employees, volunteers, and agents from all claims, causes of action, and liability arising out of or connected with AllianceOne's use of the Facilities. The City shall have no responsibility for the safety and/or

security of any person participating in the AllianceOne's use of the Facilities, except as may arise from the negligence or intentional misconduct of the City or its officers, employees, volunteers, or agents.

13. INSURANCE.

AllianceOne shall, during the term hereof and any extension thereof, obtain and maintain at the AllianceOne's expense liability insurance with insurance companies authorized to issue insurance in Washington and acceptable to the City, which protects AllianceOne, its patrons, and the City, its officers, employees, volunteers, and agents, against any personal injury, death, and property damage arising out of or connected with the AllianceOne's use of the Facilities. The liability coverage shall not be less than one million dollars (\$1,000,000.00) for any one occurrence. The insurance policy shall insure the City and its officers, employees, volunteers and agents as additional insureds.

14. WAIVER.

The waiver by the City of any breach of any term or condition of this Agreement shall not be deemed to be a waiver of such term or condition or any subsequent breach of the same or any other term or condition herein contained.

15. ASSIGNMENT.

AllianceOne shall not assign this Agreement in whole or in part or allow any use of the Facilities other than as provided herein without the written consent of the City. Any assignment without written consent shall be void and shall, at the option of the City, terminate this Agreement.

16. ENTIRE AGREEMENT.

This Agreement constitutes the entire understanding of the parties and supersedes any prior oral or written expressions of the parties.

17. AMENDMENT.

Any amendment or modification of this Agreement shall be effective only if in writing and executed by each of the parties hereto.

18. GOVERNING LAW. This Agreement shall be construed under the laws of the State of Washington and the United States of America.

19. TERMINATION.

Either party may terminate this Agreement by giving at least 30 days' written notice of intent to terminate. Upon the termination of this Agreement for any reason, AllianceOne agrees to remove all equipment, furniture, personal property, and other materials owned by AllianceOne from the Court premises and further agrees to deliver and return to the

City any and all equipment and materials belonging to the City in the custody or control of AllianceOne.

20. SEVERABILITY.

The terms of this Agreement are severable such that if one or more provisions are declared illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

21. AUTHORITY TO SIGN.

The undersigned certify that they are authorized to sign this Agreement on behalf of their respective entities and that their respective entities have acknowledged and accepted the terms and conditions herein and attached hereto.

DATED this _____ day of _____, 2014.

CITY OF MARYSVILLE

ALLIANCEONE

By _____
Jon Nehring, Mayor,

By _____
Renee Linnabary, Senior Vice President

Approved as to form:

GRANT K. WEED, City Attorney

~~Exhibit A~~
~~2009 Facilities Use Agreement.~~