

RESOLUTION R-5223

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND THE CITY OF CLYDE HILL FOR THE PROVISION OF MUNICIPAL COURT SERVICES AND FACILITIES.

1 WHEREAS, the cities of Clyde Hill and Kirkland are each
2 authorized under Washington law to operate a municipal court under
3 chapter 3.50 RCW; and
4

5 WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW,
6 authorizes municipal corporations to contract with one another to
7 perform any act that each is independently authorized to perform; and
8

9 WHEREAS, RCW 39.34.180 and 3.50.805 each directly or by
10 implication authorize municipal corporations to enter into interlocal
11 agreements for municipal court services; and
12

13 WHEREAS, Kirkland currently operates a municipal court; and
14

15 WHEREAS, Kirkland is willing to provide municipal court services
16 to Clyde Hill through an interlocal agreement.

17 NOW, THEREFORE, be it resolved by the City Council of the City
18 of Kirkland as follows:
19

20 Section 1. The City Manager is authorized to execute on behalf
21 of the City of Kirkland an Interlocal Agreement substantially similar to
22 that attached as Exhibit "A", which is entitled "Interlocal Agreement
23 between the City of Kirkland and the City of Clyde Hill for the Provision
24 of Municipal Court Services and Facilities."
25

26 Passed by majority vote of the Kirkland City Council in open
27 meeting this 13th day of December, 2016.
28

29 Signed in authentication thereof this 13th day of December,
30 2016.


MAYOR

Attest:


City Clerk

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND THE CITY OF
CLYDE HILL FOR THE PROVISION OF MUNICIPAL COURT SERVICES AND FACILITIES**

RECITALS

- A. The City of Clyde Hill ("Clyde Hill") is a municipal corporation organized under the laws of the State of Washington.
- B. The City of Kirkland ("Kirkland") is a municipal corporation organized under the laws of the State of Washington.
- C. Each of the parties to this Agreement is authorized under Washington law to operate a municipal court under chapter 3.50 RCW.
- D. The Interlocal Cooperation Act, chapter 39.34 RCW, authorizes municipal corporations to contract with one another to perform any act that each is independently authorized to perform.
- E. RCW 39.34.180 and 3.50.805 each directly or by implication authorize municipal corporations to enter into interlocal agreements for municipal court services.
- F. Kirkland currently operates a municipal court.
- G. Clyde Hill created a municipal court pursuant to the provisions of chapter 3.50 RCW.
- H. Kirkland is willing to provide municipal court services to Clyde Hill, on the terms and conditions set forth in this Agreement.
- I. The parties enter this Agreement in consideration of the mutual covenants and promises set forth in this Agreement, the mutual benefits to be derived by each, and in the exercise of authority granted by the Interlocal Cooperation Act, chapter 39.34 RCW.

AGREEMENT

- 1. **Purpose of Agreement.** The purpose of this Agreement is to provide municipal court services to Clyde Hill through the use of the facilities and personnel of the Kirkland Municipal Court; to set forth the fees to be paid by Clyde Hill for such services; and to specify the responsibilities of Kirkland and Clyde Hill respectively for such municipal court services.
- 2. **Administration.**
 - a. The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

- b. The City of Kirkland's representative shall be Marilynne Beard, Deputy City Manager. The Kirkland Municipal Court's representative shall be Aimee Vance, Court Administrator. The City of Clyde Hill's representative shall be the Clyde Hill City Manager.
3. **Duties of Kirkland.** Kirkland shall provide municipal court services for the processing of Clyde Hill cases in the same manner and at the same level as Kirkland provides for the same type of cases originating in Kirkland, including but not limited to the following:
- a. **Court Staff.** All personnel of the Kirkland Municipal Court, including the Judge, shall be employees of Kirkland, which shall be responsible for all compensation, benefits, and taxes of any nature related to their employment. Court staff will be provided as necessary to process all criminal and civil citations filed by Clyde Hill and provide all municipal court services for Clyde Hill. For the purpose of this Agreement, "municipal court services" shall include all local court services imposed by state statute, court rule, Clyde Hill City ordinance, or other regulation now existing or as later amended, including: case flow management, processing and adjudication of cases, and collection of overdue money. Other examples of court services include, but are not limited to, issuance of search and arrest warrants, setting of motions, evidentiary hearings, pre-trials, bench and jury trials, sentencings, reviews, post-trial motions, issuing notice of hearings, and the duties of the courts of limited jurisdiction regarding appeals.
 - b. **Court Security.** Kirkland shall provide unarmed court security to be present for security screening of all who enter the Kirkland Municipal Court facility and an armed court security officer to be present during certain court calendars.
 - c. **Probation.** Kirkland Municipal Court shall provide supervised probation services.
 - d. **Miscellaneous Equipment, Facility, and Utility Costs.** Kirkland shall provide and maintain all equipment such as copiers, computers, printers, and other equipment necessary for the processing of municipal cases. Kirkland shall provide the use of the Kirkland courtroom, all office space necessary for the processing of municipal cases, and associated janitorial services, facility insurance, building repair and maintenance, and related expenses. Kirkland will be responsible for payment of all utility charges such as power, water, sewer, solid waste and telephone services for any portion of the facility or facilities utilized to process municipal cases.
 - e. **Supplies and Forms.** Kirkland shall provide all forms and paperwork necessary for processing Clyde Hill cases. By way of illustration and not limitation, these include case setting forms, infraction hearing forms, warrants and general office supplies.
 - f. **Case Filing.** Kirkland will accept all criminal misdemeanor and gross misdemeanor and civil infraction filings from Clyde Hill and timely process and adjudicate the same.
 - g. **Screening Services.** Kirkland will provide screening services to determine whether Clyde Hill defendants qualify for public defense services. The Kirkland Municipal Court Judge may appoint a public defender if it is determined that a defendant is indigent.

- h. **Youth Court.** In coordination with the Kirkland Youth Council, the Kirkland Municipal Court will provide a Youth Court option for those who qualify.
- i. **Collection for Nonpayment.** Kirkland will, through the same collection process as is used for Kirkland cases, provide collection services to collect court mandated costs and assessments past due for Clyde Hill cases.
- j. **Jury Fees.** Kirkland shall pay all jury fees and costs associated with summoning jurors for Clyde Hill.
- k. **Language Interpretation.** Kirkland shall provide and pay for all language interpretation services for defendants and witnesses.
- l. **Reporting.** Kirkland Municipal Court will provide Clyde Hill with performance data at least quarterly, except where noted. The performance data shall include the following information:
 - i. Caseload report which includes the following information:
 - a. Filings by case type;
 - b. Dismissals;
 - c. Number and types of hearings;
 - d. Trial settings and types of trials set;
 - e. Number of cases disposed during report period and the manner in which the cases were disposed;
 - f. Number of deferred prosecutions/diversions;
 - g. Appeals to superior court; and
 - h. Total revenue.
 - ii. List of cases filed each month with the Kirkland Municipal Court.
 - iii. List of charges and dispositions from the previous month.
 - iv. Remittance report which includes a breakdown by case categories of revenue received.
 - v. Court Local Revenue Report, provided annually, to assist Clyde Hill in complying with Governmental Accounting Standards Board (GASB) Statement 34.

4. **Duties of Clyde Hill.**

- a. **Prosecution.** Clyde Hill shall be responsible for providing prosecution services for all misdemeanors and infractions that are filed on its behalf. Prosecutors shall be required to be present at all hearings except for pro se non-accident related contested infractions and infraction mitigation hearings. Clyde Hill shall provide discovery and subpoena witnesses for its cases. In addition, defendants held on Clyde Hill charges shall be brought before the Kirkland Municipal Court judge for first appearances in accordance with State law and in the same manner as defendants held in custody on Kirkland charges.
- b. **Public Defender.** Clyde Hill shall provide public defender services and cover all public defense costs for indigent defendants who are charged with violations of State law or Clyde Hill ordinances and entitled by law to legal counsel at public expense.

- c. **Domestic Violence Advocate Services.** Clyde Hill shall be responsible for providing domestic violence advocate services.
 - d. **Issuance of Citations.** Citations issued by Clyde Hill shall contain the applicable arraignment date in accordance with the Kirkland Municipal Court arraignment calendar.
 - e. **Filing of Tickets.** Citations and infractions issued by Clyde Hill shall be delivered to the Kirkland Municipal Court for filing within five (5) business days after the violation or issuance of the citation. If a person is booked into a jail facility, Clyde Hill shall provide the citation to the Kirkland Municipal Court no later than 7:00 AM the following business day.
 - f. **Warrants.** Whenever Clyde Hill executes a warrant, Clyde Hill shall contact the Kirkland Municipal Court and make a return on the warrant as soon as possible.
 - g. **Jail Costs.** Clyde Hill is responsible for incarceration arrangements and the costs of incarceration and transport for its defendants.
 - h. **Subpoenas.** The issuance of all subpoenas shall be the responsibility of the prosecutor or defense counsel for Clyde Hill. Kirkland Municipal Court shall provide instructions and subpoena forms to pro se defendants in infraction matters.
 - i. **Witness Fees.** Clyde Hill shall pay for all fees for witnesses requested by the prosecutor.
 - j. **Appeals.** In the event that Clyde Hill appeals a case, Clyde Hill will be charged the fee to file a notice of appeal and the cost for copying the recording of the proceedings.
5. **Formation of Clyde Hill Municipal Court.** Clyde Hill has by Ordinance No. 38 created a municipal court pursuant to chapter 3.50 RCW for statutory purposes only. Clyde Hill designates the Kirkland Municipal Court to operate as the municipal court for Clyde Hill. A case filed in Kirkland Municipal Court will continue to be identified as a case filed by Clyde Hill. Clyde Hill may revoke the provisions of this subsection. Clyde Hill will notify Kirkland of the effective date of such revocation, which may be immediately.
- a. **Municipal Judge.** Clyde Hill shall appoint the current elected Kirkland Municipal Court Judge to preside over its municipal court.
 - b. **Judges Pro Tem.** Clyde Hill agrees that the Judge(s) Pro Tem will be appointed in accordance with Kirkland Municipal Code 3.49.040(d).
 - c. **Salary.** Kirkland shall provide that the Municipal Court Judge be compensated as established by the City of Kirkland.
6. **Cost of Contract and Payments.** Commencing January 1, 2017, Clyde Hill shall pay Kirkland for providing municipal court services on a per case basis. For each criminal citation filed by Clyde Hill, Kirkland shall be paid \$155.00 plus an inflation factor based upon the June 2015-June 2016 Seattle-Tacoma-Bremerton Consumer Price Index (CPI-W). For each traffic, parking, or non-traffic infraction filed by Clyde Hill, Kirkland shall be paid \$30.00 plus an

inflation factor based upon the June 2015-June 2016 Seattle-Tacoma-Bremerton Consumer Price Index (CPI-W). These filing fees shall be the sole compensation due Kirkland for all services provided, and shall fully discharge Clyde Hill's obligations for payment of the costs Clyde Hill's municipal court pursuant to RCW 39.34.180. These fees shall be paid regardless of whether the cases are later dismissed without a full adjudication. Clyde Hill shall additionally pay all other costs as specified as the responsibility of Clyde Hill in Section 4.

- a. On a monthly basis, Kirkland shall bill Clyde Hill for amounts due under this Agreement. Clyde Hill shall pay the amount due within 45 days of receipt. However, if Clyde Hill has a good faith dispute with the amount of the invoice, Clyde Hill shall pay the non-disputed amount with the time frame set forth in this subsection.

7. Adjustment of Fees and Costs.

- a. **Annual adjustment.** Commencing January 1, 2017, the fees and costs in Section 6 shall be indexed to provide an automatic fees and costs increase each January 1st. The June to June Seattle-Tacoma-Bremerton Consumer Price Index (CPI-W) will be used to determine the increase in fees and costs each year. The Court Administrator shall compute the fee increase and the new schedule shall become effective immediately after the annual fee increase calculation. The Court Administrator shall provide written notice to Clyde Hill of any fee or cost increases by September 30th for any increases taking effect January 1st of the following year.

- b. **Adjustment for additional duties.** In the event that Kirkland's duties under this Agreement are enlarged or increased due to state mandates or new requirements from Clyde Hill, Kirkland may need to increase the filing fees or add a supplemental monthly fee from Clyde Hill to cover the costs of the enlarged or increased duties. Kirkland will notify Clyde Hill of the proposed amount and effective date of the fee changes, at least 90 days in advance, and Clyde Hill may request use of the dispute resolution process in Section 16 concerning the amount of the fee change.

8. Compensation for Court Costs. Clyde Hill shall receive one hundred percent (100%) of Local Court Revenues, Washington State Revenues, and King County Revenues, from Clyde Hill cases. The revenues paid to Clyde Hill shall exclude the following:

- a. Revenues which are not able to be dispersed by statute,
- b. Probation revenues (supervised monitoring, court compliance monitoring, and records checks only),
- c. Revenues collected to copy records or court proceedings;
- d. Not Sufficient Funds (NSF) fee recoupment received at the municipal court; and
- e. Restitution as may be awarded by a judge.

9. Factors Considered. In entering into this Interlocal Agreement for municipal court services, as required by RCW 39.34.180, Clyde Hill and Kirkland have considered the anticipated costs

of services, anticipated and potential revenues to fund the services, including fines and fees, filing fee recoupment, criminal justice funding, and state sales tax funding.

10. **Payment of State and County Remittance.** Clyde Hill is responsible for remitting all revenues due and owed to the State of Washington and King County relating to cases filed by Clyde Hill at Kirkland Municipal Court out of the gross court revenues received by Clyde Hill Municipal Court. Kirkland assumes no responsibility for making such payment to the State or King County.
11. **Monthly Payments to Contracting Cities.** Kirkland shall provide to Clyde Hill, a monthly remittance report and a check for Local, State, and County Revenues no later than 20 days after the end of the calendar month.
12. **Property.** This Agreement does not provide for the acquisition, holding or disposal of real or personal property.
13. **Joint Administrative Board.** No separate legal or administrative entity is created by this Agreement.
14. **Duration.** The initial term of this Agreement shall commence upon execution by all parties and shall be for a period of five (5) years unless terminated earlier as provided in Section 15 (Termination). The Agreement shall automatically be renewed and extended for additional five (5) year periods upon the same terms and conditions set forth in this Agreement, or as amended, unless terminated in accordance with Section 15 (Termination).
15. **Termination.** Any party shall have the right to terminate this Agreement with or without cause at any time during the term of this Agreement by written notice of termination to the other party or parties delivered by regular mail to the person identified in Section 17. The termination date shall be effective 180 days from the date of receipt of the written notice.
16. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, resolution shall be sought by the City Managers of Kirkland and Clyde Hill and if unsuccessful, then the parties agree to submit the dispute to non-binding mediation/dispute resolution.
17. **Notice.** Any notices required to be given under this Agreement shall be deemed sufficient if in writing and delivered personally or sent via certified mail to the following parties at the following addresses:

For Clyde Hill: City Manager
 City of Clyde Hill

 Clyde Hill, WA

For Kirkland: City Manager
 City of Kirkland
 123 Fifth Avenue
 Kirkland, WA 98033

Either party may change its address under this Section by serving written notice of the change to the other party.

18. **Indemnification.** The parties shall indemnify each other as follows:

- a. Kirkland shall protect, defend, indemnify and save harmless Clyde Hill, its officers, elected officials, agents, volunteers and employees from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts, errors or omission of Kirkland, its officers, employees or agents in performing this Agreement.
- b. Clyde Hill shall protect, indemnify and save harmless Kirkland, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts, errors or omissions of Clyde Hill, its officers, employees or agents in performing this Agreement.
- c. The provisions of this section shall survive the expiration or termination of this Agreement. No obligations shall exist to indemnify for injuries caused by or resulting from events occurring after the last day of court services under this Agreement.

19. **Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other party's expenses and reasonable attorney's and expert witness fees. A party may not file a lawsuit as plaintiff regarding the annual adjustment of filing fees without first participating in non-binding mediation/dispute resolution.

20. **Independent Contractor.** Each party to this Agreement is an independent contractor with respect to the subject matter of this Agreement. Nothing in this Agreement shall make an employee of Clyde Hill an employee of Kirkland for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation in accordance with Title 51 RCW, or any other rights or privileges accorded Kirkland employees by virtue of their employment. Nothing in this Agreement shall make an employee of Kirkland an employee of Clyde Hill for any purpose, including, but not limited to for withholding taxes, payment of benefits, worker's compensation in accordance with Title 51 RCW, or any other rights or privileges accorded Clyde Hill employees by virtue of their employment.

21. **Severability.** In the event that any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining provisions shall remain in full force and effect.

22. **No Assignment.** No party to this Agreement shall transfer or assign any right or obligation under this Agreement without the prior written consent of the other party. Any act in derogation shall be null and void; provided, however that any such assignment shall not

relieve the party making such assignment of its obligations under this Agreement. This provision does not apply to collection services.

23. **Recording.** Pursuant to RCW 39.34.040, prior to its entry into force, this Agreement shall be filed with the King County Recorder's Office or, alternatively, listed by subject on a Party's web site or other electronically retrievable public source.
24. **Entire Agreement.** This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter of this Agreement. There are no other representations, agreements, or understandings, oral or written, between the parties relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the parties.

This Agreement shall be executed in counterparts, any one of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, authorized representatives of the Parties have signed their names in the spaces provided below.

Dated this ____ day of _____, 2016.

CITY OF KIRKLAND

CITY MANAGER

ATTEST/AUTHENTICATED:

CITY CLERK

APPROVED AS TO FORM:

CITY OF CLYDE HILL

CITY MANAGER

ATTEST/AUTHENTICATED:

CITY CLERK

APPROVED AS TO FORM:
