RESOLUTION NO. R- 2751

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF KIRKLAND AN INTER-LOCAL GOVERNMENTAL AGREEMENT PROVIDING FOR THE CREATION OF AN "ASSOCIATION OF WASHINGTON CITIES JOINT POWERS INSURANCE AUTHORITY".

WHEREAS, adequate general comprehensive liability insurance for cities has become increasingly difficult and expensive to obtain and

WHEREAS, there has been submitted to the City of Kirkland along with other cities in the State of Washington a proposal for the creation of a joint powers insurance authority under the sponsorship of the Association of Washington Cities, and

WHEREAS, said proposed insurance authority would be authorized under state law to provide comprehensive and economical liability coverage to all participating cities through the administration of a joint protection program wherein member cities would pool their losses and claims, jointly purchase excess insurance, and administrative and other services, including claims adjusting, data processing, risk management consulting, loss prevention, legal and related services, and

WHEREAS, the City Council has reviewed said proposal in concept and deems that it would be to the benefit and advantage of the City of Kirkland to participate,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The Mayor of the City of Kirkland is hereby authorized and directed to sign on behalf of the City of Kirkland an intergovernmental cooperative agreement providing for the creation of an "Association of Washington Cities Joint Powers Insurance Authority", which agreement should be substantially in the form of the proposed contract attached to the original of this Resolution as Exhibit A and by this reference incorporated herein.

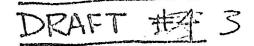
SIGNED in authentication thereof on the <u>18th</u> day of August , 1980.

Defilus

Aftest:

Director of Administration & Finance

(ex officio/City Clerk)



(NOTE: This draft includes amendments to correct typographical errors and clarify previous language and intent. Pages 8 and 13 contain the most substantial of revisions.)

INTERLOCAL AGREEMENT:

CREATING

THE PUGET SOUND CITIES

INTERLOCAL INSURANCE AUTHORITY

TABLE OF CONTENTS

•			PAGE
RECITALS			
		•	
ARTICLE 1 - Definitions		0.00	1
ARTICLE 2 - Purposes		⊘	2
ARTICLE 3 - Parties to Agreement		1	3
ARTICLE 4 - Term of Agreement	ē.		3
ARTICLE 5 - Creation of Authority			3
ARTICLE 6 - Powers of Authority	,		. 3
ARTICLE 7 - Board of Directors			4
ARTICLE 8 - Powers of the Board of Directors		•	4
ARTICLE 9 - Meetings of the Board of Directors			6
ARTICLE 10 - Executive Committee			6
ARTICLE 11 - Officers of the Authority	. •	ь,	7
ARTICLE 12 - Insurance Coverage		.:	7
ARTICLE 13 - Development of the Joint Protection Program		ì	8
ARTICLE 14 - Accounts and Records	<i>: !</i>		9
ARTICLE 15 - Responsibility for Monies			10 .
ARTICLE 16 - Responsibilities of the Authority			11
ARTICLE 17 - Responsibilities of Member Cities			12
ARTICLE 18 - Interim Period and Effective Date of Program		• • • •	13
ARTICLE 19 - New Members	£	¥	13
ARTICLE 20 - Withdrawal			14
ARTICLE 21 - Cancellation			14
ARTICLE 22 - Effect of Withdrawal			14
ARTICLE 23 - Termination and Distribution	• •	,	15
ARTICLE 24 - Provision for By-Laws and Manual		100	16
ARTICLE 25 - Notices			16
ARTICLE 26 - Amendment	.)		16
ARTICLE 27 - Prohibition Against Assignment		ī	16
ARTICLE 28 - Agreement Complete			17

INTERLOCAL AGREEMENT: CREATING THE PUGET SOUND CITIES INTERLOCAL INSURANCE AUTHORITY

THIS AGREEMENT is made and entered into in the State of Washington by and among the municipal corporations organized and existing under the Constitution or laws of the State of Washington, hereinafter collectively referred to as "Member Cities" or "Cities," and individually as "Member City" or "City" which are parties signatory to this Agreement and listed in Appendix A, which is attached hereto and made a part hereof. Said Cities are sometimes referred to herein as "parties."

RECITALS

WHEREAS, Ch. 48.62 RCW provides that two more more local public entities may, by interlocal agreement, provide insurance for any purpose by any one or more of certain specified methods; and

WHEREAS, each of the parties to this Agreement desires to join together with the other parties for the purpose of pooling their self-insured losses and jointly purchasing excess insurance and administrative services in connection with a joint protection program for said parties; and

WHEREAS, it appears economically feasible and practical for the parties to this Agreement to do so;

NOW, THEREFORE, for and in consideration of all of the mutual benefits, convenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE I

Definitions

The following definitions shall apply to the provisions of the Agreement:

- (a) "Authority" shall mean the Puget Sound Cities Interlocal Insurance Authority created by this Agreement.
- (b) "Board of Directors" or "Board" shall mean the governing body of the Authority.

- (c) "Claims" shall mean demands made against the Authority arising out of occurrences which are within the Authority's joint protection program as developed by the Board of Directors.
- (d) "Excess Insurance" shall mean that insurance purchased on behalf of the Authority to protect the funds of the Authority against catastrophes or an unusual frequency of losses during a single year.
- (e) "Executive Committee" shall mean the Executive Committee of the Board of Directors of the Authority.
- (f) "Fiscal Year" shall mean that period of twelve months which is established as the fiscal year of the Authority.
- (g) "Insurance" shall mean and include self-insurance through a funded program and/or any commercial insurance contract.
- (h) "Insurance Manager" shall mean that employee of the Authority who is appointed by the Board of Directors, and responsible for the management and administration of the joint protection program of the Authority.

Purposes

This agreement is entered into by Cities in order to provide more comprehensive and economical liability coverage, to reduce the amount and frequency of Cities' losses, and to decrease the cost incurred by Cities in the handling and litigation of claims. This purpose shall be accomplished through the exercise of the powers of Cities jointly in the creation of a separate entity, the Puget Sound Cities Interlocal Insurance Authority (the Authority), to administer a joint protection program wherein Cities will pool their losses and claims, jointly purchase excess insurance and administrative and other services including claims adjusting, data processing, risk management consulting, loss prevention, legal and related services.

It is also the purpose of this Agreement to provide, to the extent permitted by law, for the inclusion at a subsequent date of such additional municipal corporations organized and existing under the Constitution or laws of the State of Washington as may desire to become parties to this Agreement and members of the Authority, subject to approval by the Board of Directors.

Parties to Agreement

Each party to this Agreement certifies that it intends to and does contract with all other parties who are signatories of this Agreement and, in addition, with such other parties as may later be added to and signatories of this Agreement pursuant to Article 19. Each party to this Agreement also certifies that the deletion of any party from this Agreement, pursuant to Articles 20 and 21, shall not affect this Agreement nor such party's intent to contract as described above with the other parties to the Agreement then remaining.

ARTICLE 4

Term of Agreement

This Agreement shall become effective on January 1, 1981 and shall continue for not less than three years until and unless terminated as hereinafter provided.

ARTICLE 5

Creation of Authority

Pursuant to RCW 48.62 the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any party to this Agreement.

ARTICLE 6

Powers of Authority

- (a) The Authority shall have the powers common to Cities and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, any or all of the following:
 - 1) To make and enter into contracts;
 - 2) To incur debts, liabilities or obligations;

- 3) To acquire, hold or dispose of property, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and governmental entities;
 - 4) To sue and be sued in its own name; and
- 5) To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement, or otherwise authorized ((by law)).
- (b) Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

Board of Directors

- (a) The Authority shall be governed by the Board of Directors which is hereby established and which shall be composed of one representative from each Member City, as appointed by the City Council of that City. Each City Council, in addition to appointing a member of the Board, shall appoint at least one alternate who shall be an officer or employee of that City. The alternate appointed by a City shall have the authority to attend, participate in and vote at any meeting of the Board when the regular member for whom he or she is an alternate is absent from said meeting.
- (b) Each member or alternate of the Board shall be appointed for a one year term and until a successor is appointed. Each member or alternate shall serve at the pleasure of the City by which he or she has been appointed.
 - (c) Each member of the Board shall have one vote.

ARTICLE 8

Powers of the Board of Directors

The Board of Directors of the Authority shall have the following powers and functions:

(a) The Board may elect from its members, pursuant to Article 10 of this Agreement, an Executive Committee to which it may give authority to make and implement any decisions, including those involving the administration of the Authority, except those decisions that would require an amendment of this Agreement, under Article 26 herein.

- (b) The Board may review all acts of the Executive Committee, and shall have the power to modify and/or orverride any decision or action of the Executive Committee upon a majority vote of the entire Board of Directors.
- (c) The Board shall review, modify, if necessary, and approve the annual operating budget of the Authority.
- (d) The Board shall receive and review periodic accountings of all funds under Article 14 and 15 of this Agreement.
- (e) The Board shall have the power to conduct on behalf of the Authority all business of the Authority which the Authority may conduct under the provisions hereof and pursuant to law.
- (f) The Board shall determine and select a joint protection program for the Authority.
- (g) The Board shall determine and select all necessary insurance, including excess insurance, necessary to carry out the protection program of the Authority.
- (h) The Board shall have authority to contract for or develop various services for the Authority, including, but not limited to, claims adjusting, loss control and risk management consulting services.
- (i) The Board shall appoint an Insurance Manager of the Authority and shall receive and act upon reports of the Insurance Manager.
- (j) The Insurance Manager shall have the power to hire such persons as the Board authorizes for the administration of the Authority, including the "borrowing" of management-level employees from one or more of the Member Cities to assist in the development phase of the joint protection program of the Authority, subject to the approval of the Member City. Any Member City whose employee is so "borrowed" according to this provision shall be reimbursed by the Authority for that employee's time spent or services rendered on behalf of the Authority.
- (k) The Insurance Manager shall have the general supervisory control over the day-to-day decisions and administrative activities of the Authority.
- (1) The Board shall have such other powers and functions as are provided for in this Agreement.

Meetings of the Board of Directors

- (a) Meetings. The Board shall provide for its regular, adjourned regular and special meetings; provided, however, that it shall hold at least one regular meeting annually.
- (b) Minutes. The Board of the Authority shall cause minutes of regular, adjourned regular and special meetings to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to each City.
- (c) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. A vote of the majority of those members present at a meeting shall be sufficient to constitute action by the Board.

ARTICLE 10

Executive Committee

The Board of Directors may appoint an Executive Committee of the Board of Directors which shall consist of an odd number of not less than five nor more than nine members, as determined by the Board of Directors. One of the members of the Executive Committee shall be the President of the Board of Directors, or in his or her absence, the Vice President of the Board of Directors; the remainder of the members shall be elected by the Board of Directors at the same time the officers of the Board are elected in January of each calendar year. The President of the Authority, or the Vice President in his or her absence, shall serve as the Chairperson of the Executive Committee. The Board of Directors may delegate any of the powers of the Board as outlined in Article 8 to the Executive Committee and may establish and delegate any other powers and duties the Board deems appropriate.

ARTICLE 1]

Officers of the Authority

- President and Vice President. The Board shall elect a President and Vice President of the Authority at its first meeting, each to hold office for a one year term and until a successor is elected. Thereafter in January of each succeeding calendar year, the Board shall elect or re-elect the President and Vice President for the ensuing year. In the event the President or Vice President so elected ceases to be a member of the Board, the resulting vacancy in the office of President or Vice President shall be filled at the next regular meeting of the Board held after such vacancy occurs. In the absence or inability of the President to act, the Vice President shall act as President. The President, or in his or her absence, the Vice President, shall preside at and conduct all meetings of the Board, and shall be a member and the Chairperson of the Executive Committee.
- (b) Insurance Manager. The Insurance Manager shall have the general administrative responsibility for the activities of the joint protection program and shall appoint all necessary employees thereof.
- (c) Treasurer. The Treasurer shall be appointed by the Board and shall be a person other than the Insurance Manager. The duties of the Treasurer are set forth in Article 14 and 15 of this Agreement.
- (d) Attorney. The Board of Directors shall select an attorney for the Authority who may be a City Attorney from a Member City or, in the event such attorney is precluded from acting because of a conflict of interest or legal impediment, or for other good reason, the Board may employ independent counsel as the attorney for the Authority. The attorney shall serve at the pleasure of the Board of Directors.

ARTICLE 12

Insurance Coverage

(a) The insurance coverage provided for Member Cities by the Authority shall include protection for comprehensive liability, personal injury, errors and omissions, contractual liability, and such other areas of coverage as the state shall require or the Board shall determine.

- (b) The Authority shall maintain an insurance limit for Member Cities determined by the Board of Directors to be adequate. The Board may arrange purchase of a group policy for Member Cities interested in obtaining additional coverage above this limit, at an additional cost to those participating Cities.
- (c) The Board may arrange for the purchase of any other insurance deemed necessary to protect the funds of the Authority against catastrophes.

Development of the Joint Protection Program

- (a) As soon as practicable after the effective date of this Agreement, but prior to the effective date of the joint protection program, the Board of Directors shall adopt the Authority's joint protection program, including the insurance coverage provided for in Article 12, the amount of initial premiums, the precise cost allocation plan and formula, the pro forma financial statement of the Authority, and the amount and type of excess insurance to be procured.
- (b) The joint protection program provided by the Authority shall extend to all city department operations except transit, aviation and hospitals, unless otherwise excluded by the Board of Directors.
- (c) The initial premium for each City shall be determined by the Board on the basis of the City's payroll as compared to the total payroll of all Member Cities, excluding such portion of a City's payroll as may be attributable to operations not covered by the joint protection program. The total initial premium for a Member City in the first year of operation of the joint protection program shall not exceed the total premium paid by such City for the preceding year, except that if during that preceding year a City was partially self-insured, that City's initial premium shall take into account the City's loss experience under said self-insurance program.
- (d) The cost allocation plan and formula adopted by the Board shall provide for an adjustment in the Member Cities' premiums at the end of the first year of operation, and annually thereafter, in order to produce a premium for the following year for each City that is equal to the sum of the following three items:
- 1) That amount of losses borne individually by the City, as determined by the Board; and

- 2) The City's share of pooled losses and other expenses, as determined by the Board; and
- 3) The City's contribution to a catastrophe fund and reserves for incurred-but-not-reported losses, the amount of such fund and reserves to be determined by the Board.
- (e) The Board may make such premium adjustments retrospective to the prior year and each Member City shall pay any additional premium required by such retrospective adjustment.
- (f) The Board shall adopt criteria for determining each City's annual share of pooled losses, expenses and contribution to a catastrophe fund which may include the City's payroll as compared to the total payroll of all Member Cities, the City's individual loss experience, and such other criteria as the Board may determine to be relevant.
- (g) The annual readjustment of the amount of premium shall be made and notices for readjusted premium amounts and the next year's premiums shall be distributed at least ninety (90) days prior to the close of each fiscal year. This premium amount, together with any readjusted amount due under paragraph (c) above, shall be due and payable on or before 15 days after the beginning of the fiscal year.
- (h) Inasmuch as some Member Cities may experience an unusual frequency of losses during a single fiscal year, which could increase their final premium substantially above the prepaid premium for that year and cause budgetary problems, the Board may provide for payment of a portion of such additional premium to be made over a period of time, not to exceed three years, plus reasonable interest.

Accounts and Records

- (a) Annual Budget. The Authority shall annually adopt an operating budget, pursuant to Article 8(c) of this Agreement.
- (b) Funds and Accounts. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice. Books and records of the Authority shall be in the hands of the Treasurer and shall be open to any inspection at all reasonable times by representatives of Member Cities.

- (c) Insurance Manager's Report. The Insurance Manager, within one hundred and twenty (120) days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Board and to each Member City.
- (d) Annual Audit. The Board may provide for a certified, annual audit of the accounts and records of the Authority which audit shall conform to generally accepted auditing standards. When such an audit of the accounts and records is made by a Certified Public Accountant, a report thereof shall be filed as a public record with each of the Member Cities. Such report shall be filed within six (6) months of the end of the year under examination.
- (e) Costs. Any costs of the audit, including contracts with, or employment of, Certified Public Accountants, in making an audit pursuant to this Article, shall be borne by the Authority and shall be considered included within the term "administrative costs."

Responsibility for Monies

- (a) The Treasurer of the Authority shall have the custody of and disburse the Authority's funds subject to Board approval. He or she shall have the authority to delegate the signatory function to such persons as are authorized by the Board.
- (b) A bond in the amount set by the Board, but not less than one million dollars (\$1,000,000), shall be required of all officers and personnel authorized to disburse funds of the Authority, such bond to be paid for by the Authority.
 - (c) The Treasurer's duties shall include:
- (1) Receive and receipt for all money of the Authority and place it in the treasury to the credit of the Authority;
- (2) Be responsible upon his or her official bond for the safekeeping and disbursement of all of the Authority's money so held by him or her;
- (3) Pay, when due, out of money of the Authority so held by him or her, all sums payable on outstanding debts of the Authority;

- (4) Pay any other sums due from Authority money only upon request for payment signed by the President of the Board or the Insurance Manager. The Board may designate an alternate signature for each; and
- (5) Verify the report in writing on the first day of July, October, January and April of each year to the Authority and to Member Cities the amount of money held for the Authority, the amount of recepits since the last report, and the amount paid out since the last report.

Responsibilities of the Authority

The Authority shall perform the following functions in discharging its responsibilities under this Agreement:

- (a) Provide insurance coverage as necessary, including but not limited to a self-insurance fund and commercial insurance, as well as excess coverage and umbrella insurance, by negotiation or bid, and purchase, as necessary.
- (b) Assist Cities in obtaining insurance coverage for risks not included within the basic coverage of the Authority.
- (c) Assist each City's assigned risk manager with the implementation of that function within the City.
- (d) Provide loss prevention and safety and consulting services to Cities as required.
- (e) Provide claims adjusting and subrogation services for claims covered by the Authority's joint protection program.
- (f) Provide loss analysis by the use of statistical analysis, data processing, and record and file-keeping services, in order to identify high exposure operations and to evaluate proper levels of self-retention and deductibles.
- (g) Provide for Cities, as needed, a review of their contracts to determine sufficiency of indemnity and insurance provisions.
- (h) Conduct risk management audits to review the participation of each City in the program. The audit team shall include a representative from the Authority, the City involved and at least one other City.
- (i) The Authority shall have such other responsibilities as deemed necessary by the Board of Directors in order to carry out the purposes of this Agreement.

ARTICLE 17.4

Responsibilities of Member Cities

Member Cities shall have the following responsibilities:

- (a) The City Council of each City shall appoint a representative and at least one alternate representative to the Board of Directors, pursuant to Article 7 of this Agreement.
- (b) Each City shall appoint an employee of the City to be responsible for the risk management function within that City, and to serve as a liaison between the City and the Authority as to risk management.
- (c) Each City shall maintain an active safety officer and/or committee, and shall consider all recommendations of the Authority concerning the development and implementation of a loss control policy to prevent unsafe practices.
- (d) Each City shall maintain its own set of records, as a loss log, in all categories of loss to insure accuracy of the Authority's loss reporting system.
- (e) Each City shall pay its premium and any readjusted amount promptly to the Authority when due. After withdrawal or termination, each City shall pay promptly to the Authority its share of any additional premium and accrued interest at a rate determined by the Board when and if required of it by the Board under Article 22 or 23 of this Agreement.
- (f) Each City shall provide the Authority with such other information or assistance as may be necessary for the Authority to carry out the joint protection program under this Agreement.
- (g) Each City shall in any and all ways cooperate with and assist the Authority, and any insurer of the Authority, in all matters relating to this Agreement and covered losses, and will comply with all by-laws, rules and regulations adopted by the Board of Directors.

Interim Period and Effective Date of Program

(a) Interim Period. After this Agreement becomes effective, the Authority shall develop the details of the joint protection program as more fully described in Articles 12 and 13 of this Agreement. Estimated charges ((premiums)) for the Cities shall be developed and presented to each City by written notice. Each City shall have thirty (30) days from the date of such notice to withdraw from the agreement. ((consent in writing to enter-the-joint protection program.))

At the end of this thirty-day period, the actual first year charges ((premiums)) shall be determined. Each City which consented in writing to enter the program shall be bound thereby unless the actual charge ((premium)) for the first year exceeds the estimated charge ((premium)) in the written notice. If the actual charge ((premium)) exceeds such estimate, a Member City may, nevertheless, elect to proceed with its participation in the joint protection program by informing the Authority, in writing, of its decision to that effect.

(b) Effective Date. When, after the actual first year (premiums) have been determined, written notice to that effect shall immediately be given to all Cities; the joint protection program shall become effective thirty (30) days from the date of such notice. During this thirty (30) days, additional Member Cities may join the program, as allowed by the Board of Directors.

ARTICLE 19 New Members

After the effective date of the joint protection program is established by the Authority, according to the provisions of Article 18, additional cities shall not be permitted to become signatories to this Agreement, or to enter the joint protection program, during the first year of operation. Following the first year of operation, the Authority shall allow entry into the program of new members approved by the Board only at the end of the fiscal year. Cities entering under this Article will be required to pay their share of organizational expenses as determined by the Board, including those necessary to analyze their loss data and determine their premiums.

ARTICLE 20.

Withdrawal

- (a) A Member City may withdraw as a party to this Agreement any time prior to its consenting in writing to enter the joint protection program pursuant to Article 18.
- (b) A Member City that does not consent in writing to enter the joint protection program prior to the effective date of the program will be considered to have voluntarily withdrawn on such effective date.
- (c) A Member City which enters the joint protection program may not withdraw as a party to this Agreement and as a member of the Authority for a three-year period commencing on the effective date of the joint protection program, as determined by Article 18.
- (d) After the initial three-year noncancellable commitment to the program, a Member City may withdraw only at the end of any fiscal year, provided it has given the Authority a twelve-month written notice of its intent to withdraw from this Agreement and the joint protection program.

ARTICLE 21

Cancellation

The Authority shall have the right to cancel any Member City's participation in the joint protection program upon a three-quarters vote of the entire Board of Directors. Any city so cancelled shall be given 180 days notice prior to the effective date of the cancellation. Any city so terminated shall have a period of six months coverage of the program, if they so desire.

ARTICLE 22

Effect of Withdrawal

(a) The withdrawal of any City from this Agreement shall not terminate the same and no City by withdrawing shall be entitled to payment or return of any premium, consideration of property paid, or donated by the City to the Authority, or to any distribution of assets.

(b) The withdrawal of any City after the effective date of the joint protection program shall not terminate its responsibility to contribute its share of premium or funds to any fund or insurance program created by the Authority until all claims, or other unpaid liabilities, covering the period the City was signatory hereto have been finally resolved and a determination of the final amount of payments due by the City or credits to the City for the period of its membership has been made by the Board of Directors. In connection with this determination, the Board may exercise similar powers to those provided for in Article 23(c) of this Agreement.

ARTICLE 23

Termination and Distribution

- (a) This Agreement may be terminated any time during the first three noncancellable years by the written consent of all Member Cities, and thereafter by the written consent of three-fourths of the Member Cities; provided, however, that this Agreement and the Authority shall continue to exist for the purpose of disposing of all claims, distribution of assets and all other functions necessary to wind up the affairs of the Authority.
- (b) Upon termination of this Agreement, all assets of the Authority shall be distributed only among the parties that have been Members of the joint protection program, including any of those parties which previously withdrew pursuant to Article 20(d) or 21 of this Agreement, in accordance with and proportionate to their cash (including premium) payments and property (at market value when received) contributions made during the term of this Agreement. The Board shall determine such distribution within six months after the last pending claim or loss covered by this Agreement has been finally disposed of.
- (c) The Board is vested with all powers of the Authority for the purpose of winding up and dissolving the business affairs of the Authority. These powers shall include the power to require Member Cities, including those which were Member Cities at the time the claim arose or at the time the loss was incurred, to pay their share of any additional amount of premium deemed necessary by the Board for final disposition of all claims and losses covered by this Agreement. A City's share of such additional premium shall be determined on the same basis as that provided for annual premiums in Article 13(d) and (e) of this Agreement, and shall be treated as if it were the next year's annual premium for that City, subject to the limits described in Article 13(h) of this Agreement.

Provision by By-Laws and Manual

As soon as practicable after the first meeting of the Board of Directors, and within the first twelve months of the Authority's existence, the Board shall cause to be developed Authority by-laws and a policy and procedure manual to govern the day-to-day operations of the Authority. Each Member City shall receive a copy of any by-laws, policy statement or manual developed under this Article.

ARTICLE 25 Notices

Notices to Member Cities hereunder shall be sufficient if delivered to the office of the City Clerk of the respective Member City.

ARTICLE 26 Amendment

This agreement may be amended at any time by the written approval of all City Councils of Cities signatory to it, or by an amendment adopted in the manner provided for in the By-Laws.

ARTICLE 27

Prohibition Against Assignment

No City may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third party beneficiary of any City shall have any right, claim or title to any part, share, interest, fund, premium or asset of the Authority.

Agreement Complete

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by authorized officials thereof on the date indicated on following pages.

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