

RESOLUTION R- 3935

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING AND DIRECTING THE MAYOR TO SIGN ON BEHALF OF THE CITY OF KIRKLAND AN INTERLOCAL AGREEMENT WITH KING COUNTY FOR IMPLEMENTATION OF THE HAZARDOUS WASTE MANAGEMENT PLAN.

Whereas, both Kirkland and King County are authorized by state law to enter into cooperative agreements; and

Whereas, King County and the City of Kirkland have adopted the November, 1990 Local Hazardous Waste Management Plan for Seattle-King County which calls for coordination of local household and small quantity commercial hazardous waste programs; and


Whereas, participation in such program is desirable for the City of Kirkland, 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 an interlocal agreement between King County and the City of Kirkland to implement the Local Hazardous Waste Management Plan for Seattle-King County.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 16th day of May, 1995.

Signed in authentication thereof this 16th day of May, 1995.



MAYOR

Attest:



City Clerk

AGREEMENT

between

KING COUNTY

and

THE CITY OF KIRKLAND

This Agreement (the "Agreement") is entered into between King County, by and on behalf of the Seattle-King County Department of Public Health, Environmental Health Services Division (hereinafter referred to as the "County" or the "Health Department") and the City of Kirkland (hereinafter referred to as "the City").

I. PURPOSE

The purpose of this Agreement is to establish roles, relationships and financing mechanisms for implementation of the adopted November, 1990 Local Hazardous Waste Management Plan for Seattle-King County (hereinafter referred to as the "Plan"). The Plan was adopted by each of the affected agencies and jurisdictions and approved by the Washington State Department of Ecology in accordance with RCW 70.105.220(1).

The Plan calls for coordination of local household and small quantity commercial waste generator programs among the Health Department, suburban cities, King County Solid Waste Division, King County Department of Metropolitan Services and Seattle Solid Waste Utility. The Plan provides for mechanisms by which the Plan implementation shall be coordinated, funded and operated by each of the affected agencies and jurisdictions. The Plan further provides for establishment of a Management Coordination Committee for the purpose of coordination among the jurisdictions and agencies affected by the Plan. Funding for Plan programs is derived from fees collected by certified haulers of solid waste, King County Solid Waste Facilities, City of Seattle Solid Waste Facilities, sewer utilities, suburban cities that bill for solid waste/sewer services and Washington State Department of Ecology grants.

Because the Plan provides for the Health Department to administer the funds for the Plan and, for interlocal agreements, for disbursement of the funds, this Agreement defines how the City and the Health Department will implement their respective responsibilities pursuant to the Plan. The Plan is expected to be updated periodically. Plan updates may require amendments to this Agreement.

II. RESPONSIBILITIES OF THE CITY

The City shall have the following responsibilities pursuant to this Agreement in accordance with the provisions of the Plan.

- A. Development of Program and Budget Proposals. The City, if it applies for funding in any given year, shall develop program and budget proposals consistent with the intent of the Plan and submit these to the Management Coordination Committee (hereinafter referred to as the "MCC") designated by the Plan.
- B. Participation on Committees. The City shall work with the Suburban Cities Association as they designate one individual to the MCC and one or more individuals to the Technical Planning Committee as described in the plan.
- C. Program Implementation. The City shall implement the programs designated for the City in the annual scope of work for the Plan approved by the King County Board of Health and the City's legislative authority.
- D. Submittal of Expenditure Information. The City shall submit quarterly to the Health Department a statement of expenditures in a form approved by the Health Department, consistent with the approved annual scope of work and budget.
- E. Establishment and Maintenance of Records. The City shall maintain accounts and records, including personnel, financial, and programmatic records, and other such records as may be deemed necessary by the County, to ensure proper accounting for all project funds and compliance with this Agreement. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and services provided in the performance of this Agreement.

These records shall be maintained for a period of six (6) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14.

The City shall inform the Health Department in writing of the location of the aforesaid books, records, documents, and other evidence and shall notify the Health Department in writing of any change in location within ten (10) working days of any such relocation.

- F. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by the

County and/or federal/state officials so authorized by law during the performance of this Contract and six (6) years after termination hereof, unless a longer retention period is required by law.

The City shall provide right of access to its facilities, including those of any subcontractor, to the County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this Contract. The County will give advance notice to the City in the case of fiscal audits to be conducted by the County.

- G. Minority/Woman-owned Business Utilization. Minority and/or Woman-owned Business utilization goals for this Agreement are waived pursuant to King County Code 4.18.70.A4. However, as a condition of this waiver, the Director of Executive Administration instructs all parties to this Agreement that each must, at a minimum, make affirmative efforts to purchase those services authorized under this Agreement from Minority- and/or Woman-owned businesses. For those governments/municipalities/utilities where there is a Minority/Woman-owned Business procurement program, that program should be applied to each purchase made under this Agreement. For those government/municipalities/ utilities without an existing Minority/Woman-owned Business procurement program, they shall solicit from Minority/Woman-owned businesses for each individual purchase made under this Agreement, provided there are such businesses. They may use either the Washington State Office of Minority, Women and Disadvantaged Business Enterprises or the King County Office of Civil Rights and Compliance as resources to identify Minority/Woman-owned businesses for this purpose.
- H. Municipal or State Agency Provisions. If the City is a Municipal Corporation or an agency of the State of Washington and is self-insured for any of the insurance requirements set forth in Attachment A, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this section. If the City is not self-insured, then the provisions of Attachment A shall be adhered to in the performance of this Agreement.
- I. Certificate of Disposal. It shall be the responsibility of the City to provide a certificate of disposal for all wastes disposed as a result of this Agreement. Certificates of disposal shall be issued by the firm or person responsible for the disposal of waste, and shall include information about the date, manner, and location of waste disposal. Certificates of disposal shall make clear reference to specific manifests (to be included by the City with its

invoice pursuant to the attached Memorandum of Understanding on the Local Hazardous Waste Management Program for 1995 Activities) for the waste disposed. Such certificates shall be provided to the County as soon as they are available, and in any case no later than 180 days after the last day of the month during which the wastes were accepted by the Contractor.

- J. Spills and Emergencies. The City is solely responsible for any and all spills, leaks or other emergencies arising at the Facilities associated with the City's events or in any other way associated with the operations under this Agreement. In the event of a spill or a health or environmental emergency, the City shall comply with applicable law and shall warn and evacuate those persons that may be affected by the spill or emergency condition.
- K. Indemnification and Hold Harmless. Each party shall protect, defend, indemnify and save harmless the other party, its officers, officials, employees and agents while acting within the scope of their employment, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each party's own comparative negligent acts or omissions. Each party agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, each party, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that either party incurs any judgment, award and/or cost arising therefrom including attorney's fees to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible party to the extent of that party's culpability.

III. RESPONSIBILITIES OF THE HEALTH DEPARTMENT

The Health Department shall have the following responsibilities pursuant the Plan.

- A. Coordination of the MCC. The Director of the Seattle-King County Department of Public Health (the "Health Department") shall designate a representative to the MCC. The Health Department shall also coordinate MCC meetings and compile the work program and budget submittal proposed by the City, as well as proposals from the other agencies and jurisdictions affected by the Plan, and submit them to the MCC together with comments and recommendations prepared by the Technical Planning Committee. The Health Department shall further transmit the MCC recommended annual work

program and budget to the Seattle and King County Boards of Health for their consideration. Upon the Boards' of Health approval of each year's work program and budget, the Health Department will produce a Memorandum of Understanding on the Local Hazardous Waste Management Program, (form is attached hereto as Exhibit I) defining the scope of work and budget, for signing by the Health Department and the City. Each year's Memorandum of Understanding on the Local Hazardous Waste Management Program will be incorporated into this Agreement upon being fully approved and signed by both parties.

- B. Fund Management. As manager of the Local Hazardous Waste Fund, the Health Department shall provide quarterly financial plan updates to the MCC. After submittal of expenditure information by the City pursuant to Section II.D. of this Agreement, the Health Department shall arrange fund transfers to the City in the amount of those expenditures, but in no case shall the fund transfers exceed the amount of funds allocated on an annual basis in accordance with the approved budget and work plan for that particular year that has been approved by the King County Board of Health and the King County Council in the annual work program for City implementation.

IV. DURATION, AMENDMENTS AND TERMINATION

The inception of this Agreement shall be from the date of execution by both parties. The term of this Agreement shall be indefinite. This Agreement may be amended annually by signature of both parties. During the term of this Agreement, the parties will annually set the amount of funds allocated to the work program in accordance with the budget and work program approved by the King County Board of Health and the King County Council. This Agreement may be terminated upon the written request of either party with sixty (60) days notice to the other party.

V. ADMINISTRATION OF AGREEMENT

The following provisions are made in accordance with RCW 39.34:

- A. Administrator. The Seattle-King County Department of Public Health Local Hazardous Waste Program Supervisor will act as Administrator of this Agreement.
- B. Personal and Real Property. This Agreement does not authorize the purchase or sale of real or personal property.

VI. ENTIRE AGREEMENT/WAIVER OF DEFAULT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or

understandings not incorporated herein are excluded. Both parties recognize that time is of the essence in the performance of the provisions of this Agreement. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such through written approval by the Health Department, which shall be attached to the original Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth below.

King County

The City of Kirkland

Gary Locke,
King County Executive

Signature

Dave Russell
Name

Mayor
Title

Date

Date

APPROVED AS TO FORM BY THE OFFICE
OF THE KING COUNTY PROSECUTING ATTORNEY

EXHIBIT I-A

BUDGET/INVOICE

The City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

Todd Yerkes, Environmental Health Services Supervisor
Seattle-King County Department of Public Health
201 Smith Tower
Seattle, WA 98104

Period of time: January 1, 1995 to December 31, 1995.

In performance of an Agreement between the Seattle-King County Department of Public Health and the City of Kirkland, I hereby certify that the following expenses were incurred during the above mentioned period of time. The Department Program Monitor will have access to details as needed.

Signature

Date

<u>Component</u>	<u>Budget</u>	<u>Expenses</u>	<u>Balance</u>
HHW Collection:			
Local Program Grants	\$14,135		
Total	\$14,135		

For Department Use Only

Approved for payment:

Todd Yerkes

Date

Insurance Requirements. By the date of execution of this Agreement the City shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work hereunder by the City, its agents, representatives, employees, and/or Subcontractors. The cost of such insurance shall be paid by the City or the City's Subcontractor. The City may furnish separate certificates of insurance and policy endorsements for each Subcontractor as evidence of compliance with the insurance requirements of this Agreement.

For All Coverages: Each insurance policy shall be written on an "Occurrence" form; excepting that insurance for Professional Liability, Errors and Omissions when required, may be acceptable on a "claims made" form.

If coverage is approved and purchased on a "claims made" basis, the City warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is the subject of this Agreement.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. General Liability: Insurance Services Office form number (CG 00 01 Ed. 11-88) covering COMMERCIAL GENERAL LIABILITY; or Insurance Services Office form number (GL 0002 Ed. 1-73) covering COMPREHENSIVE GENERAL LIABILITY and Insurance Services Office form number (GL 0404 Ed. 5-81) covering BROAD FROM COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT.
2. Professional Liability: Professional Liability, Errors and Omissions coverage. In the event that services delivered pursuant to this Agreement either directly or indirectly involve or require professional services, Professional Liability, Errors and Omissions coverage shall be provide. "Professional Services", for the purpose of this Agreement section shall mean any services provided by a licensed professional.
3. Automobile Liability: Insurance Services Office form number (CA 00 01 Ed. 12-90) covering BUSINESS AUTO COVERAGE, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9.
4. Worker's Compensation: Worker's Compensation coverage as required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "Other States" State Law.

5. Employers Liability or "STOP GAP": The protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the General Liability policy.
6. Pollution Liability - Collection Facilities/ Transportation Modes/Disposal Facilities: As a result of the handling of wastes in the performance of this Agreement, the City shall procure and maintain, or, by the date of execution of contracts with any Subcontractors, cause its Subcontractors to procure and maintain, pollution liability insurance to cover exposure resulting from such action.

Coverage shall be at least as broad as ISO Form CG0039 with exclusion (f) deleted (if such deletion is available through the City's insurance carrier), attached and incorporated by reference into this Agreement as Exhibit A.

Minimum Limits of Insurance. the City shall maintain limits no less than, for:

1. General Liability: \$1,000,000 combined single limit per \$ amount occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit.
2. Professional Liability, Errors and Omissions: \$1,000,000.
3. Automobile Liability: The greater of (a) \$1,000,000 combined single limit per accident for bodily injury and property damage, or (b) the applicable limit as required by the Washington State Utilities and Transportation Commission.
4. Worker's Compensation: Statutory requirements of the State of residency.
5. Employers liability or "Stop Gap" coverage: \$1,000,000.
6. Pollution Liability: \$1,000,000/occurrence.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the City's liability to the County and shall be the sole responsibility of the City.

Other Insurance Provisions. The insurance policies required in this Agreement are to contain, or be endorsed to contain, the following provisions:

1. General Liability Policy:

- a. The County, its officers, officials, employees and agents are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of the City in connection with this Agreement.
 - b. To the extent of the City's negligence, the City's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the County, its officers, officials, employees or agents shall not contribute with the City's insurance or benefit the City in any way.
 - c. The City's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
2. All policies: Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the County.

Acceptability of Insurers. Unless otherwise approved by the County, insurance is to be placed with insurers with a Bests' rating of no less than A:VIII, or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII.

Professional Liability, Errors and Omissions insurance may be placed with insurers with a Bests' rating of B+:VII. Any exceptions must be approved by the County.

If at any time of the foregoing policies shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the City shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

Verification of Coverage. The City shall furnish the County with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on forms approved by the County and are to be received and approved by the County prior to the commencement of activities associated with the Agreement. The County reserves the right to require complete, certified copies of all required insurance policies at any time.

Subcontractors. The City shall include all Subcontractors

as insureds under its policies, and/or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.