

RESOLUTION R- 3974

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN AMENDMENT TO AN INTERLOCAL COOPERATIVE AGREEMENT FOR THE EAST KING COUNTY REGIONAL WATER ASSOCIATION AND AUTHORIZING THE CITY MANAGER TO SIGN SAID AGREEMENT ON BEHALF OF THE CITY OF KIRKLAND

Whereas, the City of Kirkland, along with other cities and special districts, operating water utilities within the area of King County lying east of Lake Washington, desired a Regional Association of Water Purveyors, to serve as the managing agency in the development of a coordinated water supply plan as required by the Public Water System Coordination Act of 1977; and

Whereas, said agencies are interested in exploring the resolution of other problems affecting water utilities in the region, such as establishment of fire flow standards, promotion of conservation, duplication of facilities, overlapping of service areas, and development of a regional ground water management plan, including application for grants from the State of Washington, to assist in the funding of the Coordinated Water Supply Plan and Ground Water Management Plan; and

Whereas, cities and special districts within King County and east of Lake Washington created an agency per City of Kirkland Resolution R-3377; and

Whereas, said agencies have found it desirable to make certain amendments to the Interlocal Cooperative Agreement, as set forth in Exhibit A attached to this resolution; and

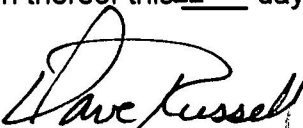
Whereas, the City Council of the City of Kirkland has reviewed the proposed amended agreement.

Now, therefore, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager of the City of Kirkland is hereby authorized to execute on behalf of the City an Agreement substantially similar to that attached hereto as Exhibit A.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 21 day of November, 1995.

Signed in authentication thereof this 21 day of November, 1995.



MAYOR

R-3974

Attest:



City Clerk
11CITY95\REGHRESO

AMENDMENT NO. 1 TO SECOND AMENDED INTERLOCAL
COOPERATIVE AGREEMENT FOR THE EAST KING
COUNTY REGIONAL WATER ASSOCIATION

IN CONSIDERATION of the mutual benefits herein conferred, the undersigned parties to that certain Second Amended Interlocal Cooperative Agreement For The East King County Regional Water Association ("Interlocal Agreement") hereby agree to amend the Interlocal Agreement as set forth below.

RECITALS

A. The East King County Regional Water Association ("RWA") was established by and is governed in accordance with the Interlocal Agreement. The Interlocal Agreement may be amended by a vote of two-thirds of the members.

B. The RWA is a Washington non-profit corporation organized and existing under RCW Ch. 24.03. Articles of Incorporation of the RWA ("Articles of Incorporation") were executed on January 25, 1987, and filed with the Secretary of State of the State of Washington on February 7, 1987.

C. The Board of Directors of the RWA adopted a policy at its regular meeting held September 22, 1994, directing that an amendment to the Interlocal Agreement be prepared to provide that the equity in the RWA's property be allocated among its members based on their contribution towards the RWA's costs. This amendment is to implement such policy.

D. In order to carry out this amendment it is necessary that the Articles of Incorporation be amended.

AGREEMENT

The undersigned parties hereby agree as follows:

1. Termination. The second sentence of Section 8 of the Interlocal Agreement is deleted and replaced with the following:

8. Duration/Termination.

a. Upon termination all liabilities of the RWA shall be paid, or otherwise provided for, in a manner allowed by law; and the net assets of the RWA shall be distributed by category to its members in accordance

with their interests as determined by the following subsection b.

b. Each member of the RWA shall have an equity interest in each of the two categories of the RWA's net assets based upon the following fractions:

(i) Project Assets:

Project Portion of Annual Dues and Special Assessments paid by the member,

divided by

Project Portion of Annual Dues and Special Assessments paid by all members.

(ii) Other Assets:

Non-Project Portion of Annual Dues paid by the member,

divided by

Non-Project Portion of Annual Dues paid by all members.

(iii) Definitions. The capitalized terms set forth above shall have the following definitions:

(1) Project Assets. Project Assets means the portion of the RWA's net assets paid for, in whole or in part, by Special Assessments and the Project Portion of Annual Dues. Such assets include, but are not limited to, the Snoqualmie Aquifer project.

(2) Other Assets. Other Assets means all net assets of the RWA other than Project Assets.

(3) Non-Project Portion of Annual Dues. Non-Project Portion of Annual Dues means the portion of the RWA's annual dues paid by a member other than the Project Portion of Annual Dues.

(4) Project Portion of Annual Dues. Project Portion of Annual Dues means the portion of the RWA's annual dues paid by a member which is allocable to the costs of acquiring, developing, maintaining, preserving and disposing of the RWA's Project Assets. Such allocation shall be

determined by the RWA's staff on an annual basis and shall be subject to the approval of the RWA's Board of Directors. Such determination shall be final and binding upon the RWA and its members except in the event of manifest error.

(5) Special Assessments. Special assessments means the amounts assessed by the RWA and paid by a member for the purpose of acquiring, developing, maintaining, preserving and disposing of the RWA's Project Assets.

2. Transfers of Interests by Members. A new section 15 is hereby added to the Interlocal Agreement as follows:

15. Transfers of Interests by Members.

(a) Nature of Interest. The interest of each member in the net assets of the RWA, which interest consists of a percentage interest in Project Assets and a percentage interest in Other Assets calculated pursuant to Section 8 hereof, is a part of, and cannot be separated from the membership interest of each member in the RWA. All such interests are called collectively "Interests" and the share of each member is called an "Interest."

(b) Restrictions on Transferability. No member of the RWA shall transfer its Interest except as set forth in the following subsections.

(c) Transfers by Operation of Law. Transfers of Interests occurring as a result of mergers, consolidations, annexations followed by assumption of assets, or by operation of law between municipal bodies shall be exempt from the restrictions in this section 15.

(d) Procedures for Transfers Other Than by Operation of Law. Any member ("Offeror") that desires to transfer all or part of its Interest shall abide by the following procedures:

(1) The Offeror shall first offer the Interest to the RWA, in writing. The Offeror and the RWA shall promptly appoint representatives to meet and negotiate, in good faith, concerning the price and terms of the transfer of the Interest to the RWA.

(2) If the Offeror and the RWA cannot agree on the price and terms within ninety (90) days from the date of the first meeting

of the representatives, the Offeror shall offer the Interest to all other then existing members of the RWA ("Offerees"), in writing. Such offer shall contain the Offeror's desired price and terms of transfer. Each Offeree may agree, in writing, within thirty (30) days from the date of the delivery of the offer, to accept such offer. The share of the Offeror's Interest purchased by an Offeree who accepts the offer ("Accepting Offeree") shall equal the percentage share of each Accepting Offeree's existing Interest calculated without regard to the Offeror's Interest.

(3) If any portion of the Offeror's Interest is not purchased, then the Accepting Offerees shall be promptly advised of such fact in writing. Within thirty (30) days after being so advised, each Accepting Offeree may agree, in writing, to purchase an additional share of such unpurchased portion. Such share shall be allocated among the Accepting Offerees who agree to so purchase based on the Accepting Offerees' respective percentage Interests calculated after the first purchase above but without regard to the Interest of the Offeror and the Interests of the Offerees who did not purchase under subsection (2) above.

(4) Any portion of the Offeror's Interest not transferred to an existing RWA member pursuant to the procedures set forth above may be offered by the Offeror on the same price and terms offered to the members to any non-member municipal class A purveyor (as defined by Washington State Department of Health regulations) who has been assigned a water service area under the East King County Coordinated Water System Plan, as amended. Before such transfer is consummated, the non-member must apply for and be accepted as a member of the RWA. The Board of Directors of the RWA may establish reasonable conditions for such application and transfer.

(5) Any portion of the Offeror's Interest which is not sold pursuant to the above procedures shall remain the property of the Offeror. The Offeror shall first offer

such portion to the RWA and then to the other members pursuant to the above procedures if the Offeror desires to sell it at a later date.

(e) The Interest of a member in the net assets of the RWA who resigns as a member and pays no further Annual Dues or Special Assessments to the RWA shall be reduced, over time, in relation to the Interests of other members through the operation of the formulas set forth in Section 8.

3. Amendment of Articles of Incorporation. Upon execution and delivery of this amendment by two-thirds of the members of the RWA, Articles of Amendment to the Articles of Incorporation substantially in the form attached hereto as Exhibit A shall be signed by the President and Secretary of the RWA and filed with the Secretary of State of the State of Washington.

4. Authority/Counterparts. Each member executing this amendment hereby warrants and represents to the other members and the RWA that the person whose signature appears below on behalf of the member has been duly and properly authorized and directed to sign this amendment on behalf of the member. This amendment may be signed in counterparts.

Approved and signed as of the date appearing next to each signature below.

CITY OF BELLEVUE

By: _____
Authorized Signature Date

CITY OF DUVALL

By: _____
Authorized Signature Date

CITY OF ISSAQUAH

By: _____
Authorized Signature Date

CITY OF KIRKLAND

By: _____
Authorized Signature Date

CITY OF MERCER ISLAND

By: _____
Authorized Signature Date

CITY OF REDMOND

By: _____
Authorized Signature Date

CITY OF RENTON

By: _____
Authorized Signature Date

CITY OF SNOQUALMIE

By: _____
Authorized Signature Date

SAMMAMISH PLATEAU WATER & SEWER DISTRICT

By: _____
Authorized Signature Date

NORTHEAST SAMMAMISH SEWER & WATER DISTRICT

By: _____
Authorized Signature Date

CEDAR RIVER WATER & SEWER DISTRICT

By: _____
Authorized Signature Date

WOODINVILLE WATER DISTRICT

By: _____
Authorized Signature Date

KING COUNTY WATER DISTRICT NO. 107

By: _____
Authorized Signature Date

KING COUNTY WATER DISTRICT NO. 119

By: _____
Authorized Signature Date