

RESOLUTION R- 4378

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT BETWEEN the CITY OF KIRKLAND, hereafter called "City"; and King County

WHEREAS, the Washington State Legislature enacted the Commute Trip Reduction Act (Chapter 202, Laws of 1991, codified as RCW 70.94.521-551) to require local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce vehicle miles traveled per employee and single occupant vehicle commute trips; and

WHEREAS, the City has within its boundaries one or more "major employers" and is required by RCW 70.94.527 to develop and implement a commute trip reduction plan; and

WHEREAS, the Parties hereto are authorized to enter into this Agreement pursuant to RCW 70.94.527 (6); and

WHEREAS, the King County Code 28.94.110 authorizes the execution and administration of Agreements with state and local agencies for assistance in implementing the Commute Trip Reduction Act; and

WHEREAS, the local jurisdiction commute trip reduction plans are required to be coordinated and consistent with plans of adjacent jurisdictions and applicable regional plans; and

WHEREAS, the City and King County desire to implement the Commute Trip Reduction Act consistent with the guidelines established by the state Commute Trip Reduction Task Force and with King County and other cities within the county; and

WHEREAS, the City can achieve cost efficiencies and administrative consistency by contracting with King County for CTR implementation;

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

Section 1. The City Manger of the City of Kirkland is hereby authorized to execute on behalf of the City an Interlocal Agreement substantially similar to that attached as Attachment A.

Passed by majority vote of the Kirkland City Council in open meeting  
this 4th day of February, 2003.

Signed in authentication thereof this 4th day of February, 2003.

MAYOR

Attest:

City Clerk

**Attachment A**  
**COMMUTE TRIP REDUCTION ACT IMPLEMENTATION AGREEMENT**

This Agreement is entered into by and between King County, acting through its Department of Transportation (hereinafter the "County"), and the City of Kirkland ("City"), both of which entities may be referred to hereinafter as "Parties," for the purpose of implementing the Washington State Commute Trip Reduction Act of 1991.

WHEREAS, the Washington State Legislature enacted the Commute Trip Reduction Act (Chapter 202, Laws of 1991, codified as RCW 70.94.521-551) to require local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce vehicle miles traveled per employee and single occupant vehicle commute trips; and

WHEREAS, the City has within its boundaries one or more "major employers" and is required by RCW 70.94.527 to develop and implement a commute trip reduction plan; and

WHEREAS, the Parties hereto are authorized to enter into this Agreement pursuant to RCW 70.94.527 (6); and

WHEREAS, the King County Code 28.94.110 authorizes the execution and administration of Agreements with state and local agencies for assistance in implementing the Commute Trip Reduction Act; and

WHEREAS, the local jurisdiction commute trip reduction plans are required to be coordinated and consistent with plans of adjacent jurisdictions and applicable regional plans; and

WHEREAS, the City and King County desire to implement the Commute Trip Reduction Act consistent with the guidelines established by the state Commute Trip Reduction Task Force and with King County and other cities within the county; and

WHEREAS, the City can achieve cost efficiencies and administrative consistency by contracting with King County for CTR implementation;

NOW THEREFORE, in consideration of the mutual promises and covenants herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

**SECTION 1.0 PURPOSE.**

The purpose of this Agreement is to assign certain tasks to be undertaken by King County on behalf of the City to implement the CTR Act.

**SECTION 2.0 DEFINITIONS**

The following definitions shall apply for purposes of this Agreement:

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**"Administrative Representative"** means the primary administrative contact for issues related to this Agreement as designated in Section 3.5 of the Agreement.

**"Affected Employer"** means an employer required by RCW 70.94.521 and the City's CTR Plan to implement a CTR program (see also "major employer").

**"Commute Trip Reduction Plan (CTR Plan)"** means a plan adopted by the City designed to reduce the proportion of single occupant vehicle commute trips and vehicle miles traveled per employee, as described in RCW 70.94.527.

**"Commute Trip Reduction Program (CTR Program)"** means a program designed by an affected employer to reduce the proportion of single occupant vehicle commute trips and the commute trip vehicle miles traveled by employees at a worksite, as described in RCW 70.94.531.

**"CTR Funds"** means state funds authorized by RCW 70.94.544 and Section 301 of the Natural Resources biennial budget to help counties and cities implement commute trip reduction plans.

**"Major Employer"** means a private or public employer that employs one hundred or more full-time employees at a single worksite who are scheduled to begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year, as provided in RCW 70.94.521 (herein also known as an "affected employer").

**"State"** is the Washington State Department of Transportation (WSDOT) unless otherwise noted.

### SECTION 3.0 SCOPE OF WORK

- 3.1 **Scope of Work:** The scope of work to be completed by the County on behalf of the City in accordance with this Agreement is described in "Exhibit A: Scope of Work", which by reference is made a part of this Agreement. Funds provided by the City to King County under this Agreement shall be used solely for activities undertaken to fulfill the provisions of the scope of work as provided in Exhibit A.
- 3.2 **Regional Cooperation:** Some tasks in the Scope of Work are subarea or county-wide and assume that the City will participate with other contracting cities and try to the extent possible to develop policies and products consistent throughout the county to take advantage of economies of scale and cost efficiencies.
- 3.3 **Schedule:** The schedule for tasks is indicated in Exhibit A: Scope of Work. A quarterly review of progress to date will be held with the City and the County.
- 3.5 **Administrative Representatives:** the County and the City shall each designate an administrative representative for matters pertaining to this Agreement.

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King County shall be represented by the Manager of Sales and Customer Service or his/her designee. The City shall be represented by the Director of Transportation or his/her designee.

#### SECTION 4.0 DISBURSEMENT OF FUNDS

**4.1 Budget:** The budget for work to be performed through June 30, 2003 is specified in Exhibit B, which is attached to this Agreement and incorporated herein.

**4.2 Payment Process:** the County shall submit invoices and quarterly progress reports to the City per the schedule indicated below. The City shall make payment to the County within 45 days of receipt of the invoice.

Payment	Fixed Payment	Invoice Submitted No Earlier Than:
1 <sup>st</sup> payment	\$7,027.50	March 31, 2003
2 <sup>nd</sup> payment	\$7,027.50	June 30, 2003
Total	\$ 14,050.00	

**4.3 Payment Amount:** Each payment shall consist of the fixed amount specified above in Section 4.2 plus reimbursement of workshop expenses estimated to be \$225.00 for the entire length of the contract

The workshop expenses to be shared by the City shall consist of a fixed labor element plus actual non-labor expenditures. The fixed labor element shall be as follows:

- ETC Orientation	\$257.00 fixed labor charge per workshop
- Program Implementation	\$257.00 fixed labor charge per workshop
- Survey Briefing	\$166.00 fixed labor charge per workshop
- Additional Workshops	\$39.90 fixed labor charge per hour for King County trainers

The City shall pay a percentage share of workshop expenses based on the percentage of total registrants for the workshop representing sites in the City.

#### SECTION 5.0 AUDITING OF RECORDS, DOCUMENTS, AND REPORTS

The State Auditor and any of its representatives shall have full access to and the right to examine during normal business hours and as often as the state Auditor may deem necessary, all the records of the City and the County with respect to all matters covered in this Agreement. Each Party to the Agreement shall have similar access and rights with respect to the records of the other Party. Such

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representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by this Agreement. Such rights last for three (3) years from the date final payment is made hereunder.

## **SECTION 6.0 EQUAL EMPLOYMENT OPPORTUNITY**

King County agrees to abide by all applicable federal and state statutes and regulations prohibiting employment discrimination.

## **SECTION 7.0 WAIVER OF DEFAULT**

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of the 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 the Agreement unless stated to be such in writing, signed by an authorized representative of each party, and attached to the original Agreement.

## **SECTION 8.0 SEVERABILITY**

Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect if such remainder continues to conform to the terms and requirements of applicable law and the intent of this Agreement.

## **SECTION 9.0 LEGAL RELATIONS**

- 9.1 It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other Party. No joint venture or partnership is formed as a result of this Agreement.
- 9.2 To the maximum extent permitted by law, each party shall defend, indemnify and hold harmless the other party and all of its officials, employees, principals and agents from all claims, demands, suits, actions, and liability of any kind, including injuries to persons or damages to property, which arise out of, are connected with, or are due to any negligent acts or omissions of the indemnifying party, its contractors, and/or officials, employees, agents, or representatives in performing work under this Agreement; provided, however, that if (and only if) the provisions of RCW 4.24.115 apply and any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the City or its contractors, officials, employees, agents, or representatives, and the County or its

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contractors, officials, employees, agents, or representatives, each party's obligation hereunder applies only to the extent of the negligence of such party or its contractors, officials, employees, agents, or representatives. Each party specifically assumes potential liability for actions brought by its own employees against the other party and for that purpose each party specifically waives, as to the other party only and only to the extent necessary to fulfill its obligations under this Agreement, any immunity under the Worker's Compensation Act, RCW Title 51; and the parties recognize that this waiver was the subject of mutual negotiation and specifically entered into pursuant to the provisions of RCW 4.24.115, if applicable.

- 9.3 The City acknowledges it is solely responsible for its compliance with the CTR Act, and for the adoption, implementation, and enforcement of any ordinances, plans, and programs related to the CTR Act. The City shall indemnify and hold King County harmless from, and shall process and defend, at its own expense, any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs arising out of, in connection with, or incidental to any act or omission of the City or any of its officers, employees, subcontractors or agents in adopting or enforcing any ordinances, plans and programs related to the CTR Act.
- 9.4 The Parties hereto acknowledge that the State of Washington is not liable for damage or claims from damages arising from any act or omission of King County or the City under this Agreement.
- 9.5 In the event any party incurs attorney's fees, costs or other legal expenses to enforce provisions of this section against another party, all such fees, costs, and expenses shall be recoverable by the prevailing party.
- 9.6 This Agreement shall be interpreted in accordance with the laws of the State of Washington in effect on the date of execution of this Agreement. The Superior Court of King County, Washington shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 9.7 The provisions of this section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to expiration or termination.

#### **SECTION 10.0 AGREEMENT PERIOD**

This Agreement is effective from January 1, 2003. The expiration date for purposes of performing substantive work as described in Exhibit A (Scope of Work) and for incurring costs is June 30, 2003, and for final accounting purposes is August 31, 2003, unless the Parties agree to an extension using the modification procedure provided in Section 11 below.

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### SECTION 11.0 AGREEMENT MODIFICATIONS

This Agreement may be amended, altered, clarified or extended only by written Agreement for and on behalf of the City by its City Manager or designee, and for and on behalf of the County by its General Manager of the Transit Division or designee.

### SECTION 12.0 TERMINATION

- 12.1 Either Party to this Agreement may terminate the Agreement, in whole or in part, for convenience and without cause upon thirty (30) days advance written notice of the termination to the other Party. If this Agreement is so terminated prior to fulfillment of the terms stated herein, King County shall be reimbursed for all actual direct and related indirect expenses and non-cancellable obligations incurred to the date of termination.
- 12.2 If at any time during the Agreement period the State acts to terminate, reduce, modify, or withhold CTR Grant Funds allotted to the City pursuant to RCW 79.94.544 then either Party may terminate this Agreement by giving thirty (30) days advance written notice to the other Party.

### SECTION 13.0 ENTIRE AGREEMENT

This document contains all terms, conditions and provisions agreed upon by the Parties hereto. Any oral or written representations or understandings not incorporated herein are excluded. Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day first above mentioned.

KING COUNTY

By \_\_\_\_\_  
General Manager, Metro Transit

Approved as to form:

CITY OF KIRKLAND

By \_\_\_\_\_  
Assistant City Attorney

By \_\_\_\_\_

OR: \_\_\_\_\_



**City of Kirkland – Exhibit A**  
**Commute Trip Reduction Services Contract**  
**Scope of Work**  
**Period: January 1, 2003, through June 30, 2003**

<b>Work Activities – 18 current sites</b>	<b>Schedule</b>
<b>A.</b> Notification of new sites <ol style="list-style-type: none"> <li>1. Identify contact for potential sites</li> <li>2. Send notification inquiry</li> <li>3. Confirm status</li> <li>4. Secure state code</li> <li>5. Create timeline and legal file</li> </ol>	As needed
<b>B.</b> Survey (3 estimated) <ol style="list-style-type: none"> <li>1. Alert employer to survey timeline</li> <li>2. Track survey completion and processing</li> <li>3. Send survey results to employer</li> </ol>	As necessary
<b>C.</b> Program review <ol style="list-style-type: none"> <li>1. Remind employers of submittal deadlines</li> <li>2. Monitor program report receipt</li> <li>3. Review revised programs for sites that did not make progress and evaluate the potential for progress toward SOV reduction</li> <li>4. Review program reports for completeness for new sites and for sites that made progress toward goal</li> <li>5. Recommend action to jurisdiction</li> <li>6. Generate approval letter for City signature</li> </ol>	Ordinance schedule by Site
<b>E.</b> Exemptions & Modifications <ol style="list-style-type: none"> <li>1. Inform new sites about process and criteria</li> <li>2. Receive requests and copy to city</li> <li>3. Copy request to state for comment</li> <li>4. Review and analyze request and provide comments to City</li> <li>5. Contact employer as needed, generate and send response per city</li> </ol>	As needed
<b>F.</b> Records maintenance <ol style="list-style-type: none"> <li>1. Maintain database and master file records on all affected sites</li> <li>2. On a quarterly basis, provide WSDOT with hard copy of each employer program report approved within the quarter</li> <li>3. Provide WSDOT with an electronic copy of the CTR database of the City's CTR-affected employers, quarterly or as required by WSDOT</li> <li>4. Provide quarterly report information for jurisdiction to conduct state funds billing</li> </ol>	On-going
<b>G.</b> Program Development New Sites <ol style="list-style-type: none"> <li>1. Provide written information on basic requirements of the CTR Ordinance, CTR Zones, and an explanation of how the plan is intended to achieve its goals</li> </ol>	As needed

2. Provide materials that explain a range of measures and activities that may help the employer achieve the CTR goals of the local ordinance
3. Assist with voluntary baseline survey. Analyze survey data and make program recommendations.

H. New ETC Consultation/Briefing

As needed

1. Provide written information on basic requirements of the CTR Ordinance, CTR Zones, and an explanation of how the plan is intended to achieve its goals
2. Provide materials that explain a range of measures and activities that may help the employer achieve the CTR goals of the local ordinance

I. Program Implementation Assistance

As needed

Provide assistance in the following categories:

1. Identify resources and implementation requirements
2. Coordinate / attend one network group meeting
3. Communicate with ETCs about transportation issues, including Sound Transit, Metro Transit, special events and items of interest (e.g., construction and road closures, air quality alerts, WSRO bulletins)

J. Training

Quarterly

Provide county-wide basic training to new ETCs

1. Basic Training part 1: ETC orientation
2. Basic Training part 2: Program Implementation and Promotion
3. Survey briefing

**CITY OF KIRKLAND****Exhibit B****City of Kirkland**

6 Month Only\*

Jan - June 2003

CTR Funds (02-03 is estimated 12 month total \$28,585)

\$ 14,293

Other?

Estimated Funds Available

\$ 14,293

**Six Month Contract Period: January 1 through June 30, 2003**

	CTR Sites
Number of Sites:	16
ETR / CS1 FTE per site:	0.0143
Total FTE:	0.228
# Service Hours (6-month period)	238
# Hrs per site for period Jan-June '03	14.9
Number of Survey Sites (see list below):	9

**BUDGET****Labor:**

Direct Service Labor	\$ 9,467
Indirect Labor @ .135	\$ 1,278
<b>Total Labor</b>	<b>\$ 10,745</b>

**Overhead and Operating Expenses**

Overhead	\$ 1,080
Supplies & Incentives(@ \$10/site)	\$ 160
<b>Total Overhead and Operating</b>	<b>\$ 1,240</b>

<b><u>Survey Labor</u></b>	<b>\$ 2,066</b>
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<b>Contract Fixed Fee</b>	<b>\$ 14,050</b>
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<b><u>Estimated Workshop Costs:</u></b>	<b>\$ 225</b>
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<b>Total Including Estimated Workshop Costs:</b>	<b>\$ 14,275</b>
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\* This 6-month contract is intended to provide continuous service from the end of the current CTR funded contract (December 31, 2002) to the beginning of the new CTR interlocal agreement starting July 1, 2003.

**Survey Sites Included:****February 2003 Surveys**

Airshow, City of Kirkland, Computer Associates, Evergreen Healthcare, FileNET,  
Kenworth, Terabeam, Travis

**March 2003 Surveys**

Digeo