

RESOLUTION R- 4379

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 Legislature enacted RCW 70.94.521-.551, commonly known as the Commute Trip Reduction Act, to require local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle commute trips; and

WHEREAS, King County and the cities within King County having within their boundaries one or more "major employers" as defined by RCW 70.94.524(1) are required to develop and implement commute trip reduction plans; 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 Legislature appropriated funds to provide technical assistance funding to local jurisdictions required to develop and implement commute trip reduction plans; and

WHEREAS, King County in its agreement with the State has the authority to receive CTR funds on behalf of jurisdictions and retain such funds as payment for work performed by the County on behalf of a jurisdiction to satisfy that jurisdiction's obligations under the Commute Trip Reduction Act; and

WHEREAS, the City desires to have King County perform the work necessary to satisfy the City's statutory obligations under the Commute Trip Reduction Act and to retain the City's allocation of state funds as payment for those services; and

WHEREAS, the Parties hereto are authorized to enter into this Agreement pursuant to RCW 70.94.527(6) and Chapter 39.34 RCW-the Interlocal Cooperation Act;

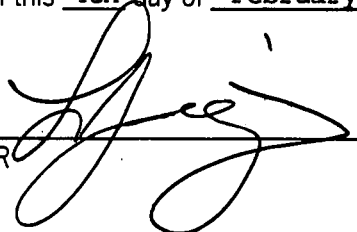
NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

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.

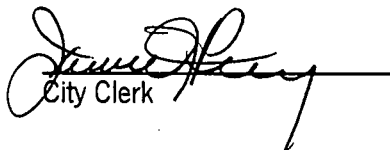
Passed by majority vote of the Kirkland City Council in open meeting
this 4th day of February, 2003.

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

MAYOR

A large, stylized handwritten signature in black ink, written over a horizontal line.

Attest:

A handwritten signature in black ink, written over a horizontal line.
City Clerk

Attachment A
COMMUTE TRIP REDUCTION ACT INTERLOCAL AGREEMENT

This Agreement is entered into by and between King County (the "County") and the City of Kirkland ("City"), both of which entities may be referred to hereinafter as "Parties."

WHEREAS, the Legislature enacted RCW 70.94.521-.551, commonly known as the Commute Trip Reduction Act, to require local governments in those counties experiencing the greatest automobile-related air pollution and traffic congestion to develop and implement plans to reduce single-occupant vehicle commute trips; and

WHEREAS, King County and the cities within King County having within their boundaries one or more "major employers" as defined by RCW 70.94.524(1) are required to develop and implement commute trip reduction plans; 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 Legislature appropriated funds to provide technical assistance funding to local jurisdictions required to develop and implement commute trip reduction plans; and

WHEREAS, King County in its agreement with the State has the authority to receive CTR funds on behalf of jurisdictions and retain such funds as payment for work performed by the County on behalf of a jurisdiction to satisfy that jurisdiction's obligations under the Commute Trip Reduction Act; and

WHEREAS, the City desires to have King County perform the work necessary to satisfy the City's statutory obligations under the Commute Trip Reduction Act and to retain the City's allocation of state funds as payment for those services; and

WHEREAS, the Parties hereto are authorized to enter into this Agreement pursuant to RCW 70.94.527(6) and Chapter 39.34 RCW--the Interlocal Cooperation Act;

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 PURPOSES

The purposes of this Agreement are: (1) To set forth the responsibilities of the Parties, including the County's role as the City's designee for CTR purposes and (2) to continue a cooperative approach between the City and the County in order to address interjurisdictional issues and to meet the statutory requirements for coordination and consistency among the jurisdictions' respective commute trip reduction plans.

SECTION 2.0 . DEFINITIONS

The following definitions shall apply to this Agreement:

"Administrative Representative" means a person responsible for being the central administrative contact for issues related to this Agreement as designated pursuant to Section 3.4 of the Agreement.

"Affected Employer" means a private or public employer that, for at least twelve continuous months during the year, employs one hundred or more full-time employees at a single worksite who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays on two or more weekdays.

"Commute Trip Reduction Act" means Chapter 202, Washington Laws of 1991, codified as RCW 70.94.521-.551, as amended.

"Commute Trip Reduction Plan (CTR Plan)" means a plan designed to achieve reductions in the proportion of single-occupant vehicle commute trips and the vehicle miles traveled as described in RCW 70.94.527.

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

"CTR Funds" means state funds authorized by RCW 70.94.544 to assist counties and cities implementing commute trip reduction plans.

"State" is the Washington State Department of Transportation or its successor agency unless otherwise noted.

SECTION 3.0 SCOPE OF WORK

- 3.1 **Scope of Work:** The scope of work to be completed by the City, and by the County on the City's behalf, in accordance with this Agreement is described in Exhibit A: Scope of Work, which by reference is made a part of this Agreement.
- 3.2 **Separate Agreements for CTR Services:** Consistent with applicable State and local laws and regulations, the City may enter into separate agreements with the County and other public agencies or consultants to perform the following CTR tasks under contract: (1) assist employers in developing CTR programs; (2) review and approve CTR programs, annual reports, requests for exemptions, modifications or other actions submitted by employers; and (3) establish and maintain records and produce required reports.
- 3.3 **Evaluation and Monitoring:** The City shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the State that are pertinent to its

performance of the Scope of Work and its responsibilities under the Commute Trip Reduction Act.

- 3.4 Administrative Representatives:** Immediately following their execution of this Agreement, the County and the City shall each designate one person to be the central administrative contact for matters pertaining to this Agreement, and shall make such designation, as well as any subsequent changes in such designation, known to each other in writing, immediately after such designation.

SECTION 4.0 CHANGE IN FUNDS.

- 4.1 If an increase in funding by the funding source augments the City's allocation of funding under this Agreement, the City and County agree to enter into an amendment to this Agreement providing for an appropriate change in the Scope of Work and/or the project amount in order to reflect any such increase in funding.
- 4.2 If a reduction of funding by the funding source reduces the City's allocation of funding under this Agreement, the City and County agree to enter into an amendment to this Agreement providing for an appropriate change in the Scope of Work and/or the project amount in order to reflect any such reduction of funding and/or the Parties may terminate the Agreement, as provided in Section 7.3(b) of this Agreement.

SECTION 5.0 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 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 in writing, signed by an authorized representative of the entity making such waiver.

SECTION 6.0 LEGAL RELATIONS

- 6.1 It is understood and agreed that this agreement is solely for the benefit of the Parties hereto and gives no right to any other entity. No joint venture or partnership is formed as a result of this Agreement.
- 6.2 Each party shall defend, indemnify and hold harmless the other party, its officers, officials and employees from all claims, demands, suits, actions and liability of any kind which arise out of, are connected with or result from any errors, omissions or negligent acts of the other party, its contractors, employees or agents in the performance of the work of this Agreement; provided, however, that if any such liability is the result of the concurrent negligence of the parties, the obligations under this section shall be allocated in proportion to the percentage of negligence attributed to each party. Each party agrees that its obligations under this provision extend to any claim, demand or cause of action brought by

its own employees. The foregoing indemnity is specifically and expressly intended to constitute a waiver of the indemnifying party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnification of claims made by the indemnifying party's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

- 6.3 The City agrees that the WSDOT and the State of Washington are not liable for damages or claims arising from the City's performance or activities under this agreement. The City further agrees to include in each contract for services or activities using funds provided in whole or in part by this Agreement a provision in which the contractor agrees that the WSDOT and the State are not liable for damages or claims from damages arising from any subcontractor's performance or activities under this Agreement.
- 6.4 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.
- 6.5 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.
- 6.6 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 7.0 TERM, DURATION, MODIFICATION AND TERMINATION.

- 7.1 **Term of Agreement:** This Agreement shall be effective July 1, 2003. The expiration date for purposes of performing substantive work and for incurring costs hereunder shall be June 30, 2004, and for final accounting purposes shall be July 31, 2004, unless terminated earlier or extended pursuant to the provisions hereof.
- 7.2 **Extension/Modification.** This Agreement may be amended or otherwise altered only by written agreement of the County Executive or his/her designee and an authorized representative of the City. Exhibit C: Format for Agreement to Extend and/or Modify the CTR (ILA), which is attached to this Agreement and incorporated herein, may be used for such action.
- 7.3 **Termination.**
 - (a) Each Party may terminate its obligations under this Agreement upon thirty (30) days advance written notice of the termination to the other Party.
 - (b) If at any time during the Agreement period the State acts to terminate, reduce, modify, or withhold the CTR Funds allotted to the County, then either Party may terminate this

Agreement upon giving thirty (30) days written notice to the other Party. The County shall have the authority and responsibility to ensure that upon termination of this Agreement, any remaining CTR Funds are made available to the City or returned to the State.

SECTION 8.0 CHANGE IN STATUS

If the City finds it is no longer affected by Chapter 70.94 RCW and is therefore no longer required to implement a CTR plan, it may continue to be a Party to this Agreement for purposes of participating in the CTR Coordinating Committee for information sharing, but shall not receive CTR Funds effective with the quarter following the change in status.

SECTION 9.0 SEVERABILITY.

In the event any term or condition of the Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, condition or application. To this end the terms and conditions of this agreement are declared severable.

SECTION 10.0 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by having their authorized representatives affix their signatures below.

Approved as to form:

THE CITY OF KIRKLAND

By _____
Title: _____

By _____
Title _____

Date: _____

KING COUNTY:

By _____
Rick C. Walsh, General Manager, Metro Transit

Date: _____

EXHIBIT A: Scope of Work

Attachment - Format for Quarterly Reports

EXHIBIT B: Methodology for Allocating Funds

EXHIBIT C: Format for Agreement to Extend and/or Modify the CTR ILA

EXHIBIT A: SCOPE OF WORK**City Tasks:****1. General Program Administration**

Maintain and administer a CTR ordinance and plan for affected employers in the jurisdiction.

2. Public Hearing Notice

Provide WSDOT with a public hearing notice and copies of any proposed amendments to the CTR ordinance, plan, and/or administrative guidelines within the first week of the public review period and final copies of all actions within one (1) month of adoption.

3. Appeals

Maintain an appeals process. This process must be consistent with RCW 70.94.534(6) and procedures contained in the Commute Trip Reduction Task Force Guidelines.

County Tasks:**1. Annual Expenditure Report**

Within thirty (30) days after June 30, 2003, submit to WSDOT a report summarizing overall costs incurred in implementing the CTR ordinance and plan. Costs shall be reported in a format provided by WSDOT.

2. Exemptions and Modifications

The County will submit requests for exemptions or modifications, including requests for goal modifications, to WSDOT for review and comment within five (5) days of receiving such requests, and shall allow WSDOT five (5) working days to provide comments prior to approving or denying the request.

3. Technical Guidance and Support

Work collaboratively with and provide technical guidance and support to affected employers. The County will provide the basic services identified in the Commute Trip Reduction Task Force Guidelines in order to achieve trip reduction goals.

4. Survey Processing

Notify WSDOT prior to sending any surveys to the University of Washington, Office of Educational Assessment for processing. The notification must include the name of the worksite, employer identification code, and type of survey for each survey being submitted for processing. The notification shall be submitted as an electronic spreadsheet via electronic mail. The County agrees to wait for confirmation from WSDOT prior to sending or delivering the surveys for processing.

5. Database Updates

Provide WSDOT with updated lists of affected worksites and jurisdiction contacts on a quarterly basis. These updates will be submitted electronically in a format specified by WSDOT.

6. Employer Annual Reports

Within 30 days from the date of approval, submit to WSDOT one electronic or hard copy of any approved employer annual reports.

7. Employer Exemptions and Goal Modifications

Within 30 days from the date of approval, submit to WSDOT the name and employer identification code for any worksite that has been granted an exemption or goal modification. Include information about the duration of all exemptions and information on the type of goal modification granted.

8. Progress Report and Invoice

Submit to WSDOT periodic progress reports, as detailed in the Attachment to Exhibit A, along with any invoice or request for reimbursement.

**ATTACHMENT
to Exhibit A
Quarterly Report Format**

- Name of the Organization Submitting Report
- Submitted on behalf of following Jurisdiction(s)
- Contact Person Name
- Contact Person Phone and Fax Number
- Contact Person e-mail

1. CTR activities:

A brief summary of activities undertaken

2. Expenditures This Quarter

List actual total expenditures on the last line of the following table. Estimate expenditures by category as indicated.

Categories	CTR Fund Expenditures Since Last Report	CTR Fund Expenditures Year To Date
Program administration	\$	\$
Training	\$	\$
Employer support and services	\$	\$
Other (Specify)	\$	\$
Total	\$	\$

EXHIBIT B: METHODOLOGY FOR ALLOCATING CTR FUNDS**Funding Allocation Methodology**

Funding allocated by WSDOT for local implementation of CTR activities is based on the following formula:

1. 80% of total available state funding for local CTR implementation will be allocated based on the number of affected worksites in each county, provided that each county receives a minimum of \$80,000 per year. The number of affected worksites in each county shall be based on information contained in WSDOT database as of May 1 of each year.
2. 20% of total available state funding for local CTR implementation will be allocated based on the number of commute trips reduced by worksites in each county between each worksites base year survey and its most recent survey. For the period July 1, 2001 through June 30, 2002, the most recent survey period will be 1999. For the period July 1, 2002 through June 30, 2003, the most recent survey period will be 2001.

July 1, 2001 – June 30, 2002 Allocation

County	# of Work sites	% Work sites	80% Work site Allocation	Trips Reduced / Day	20% Performance Allocation	2003 Total
Clark	51	4.59%	\$80,000.00	654	\$11,866.87	\$91,866.87
King	594	53.47%	\$735,486.65	11,587	\$210,246.87	\$945,733.53
Kitsap	37	3.33%	\$80,000.00	0	\$0.00	\$80,000.00
Pierce	84	7.56%	\$104,008.21	4,278	\$77,624.59	\$181,632.80
Snohomish	89	8.01%	\$110,199.18	1,050	\$19,052.32	\$129,251.50
Spokane	113	10.17%	\$139,915.81	2,255	\$40,917.12	\$180,832.93
Thurston	94	8.46%	\$116,390.14	568	\$10,306.40	\$126,696.54
Whatcom	27	2.43%	\$80,000.00	329	\$5,969.73	\$85,969.73
Yakima	22	1.98%	\$80,000.00	304	\$5,516.10	\$85,516.10
TOTAL	1111	100.00%	\$1,526,000.00	21,025	\$381,500.00	\$1,907,500.00

Any distribution of funds to jurisdictions within a county shall be done on the basis of the number of affected worksites in each jurisdiction. For example, if there are two jurisdictions in a county, each with fifty percent of the total number of affected worksites in the county, any division of funds within the county should provide each of the two jurisdictions with fifty percent of the total county funding allocation.

**EXHIBIT C: FORMAT FOR AGREEMENT TO EXTEND AND/OR MODIFY THE
CTR INTERLOCAL AGREEMENT**

This general format shall be followed to carry out the provisions of Section 7.2 to extend or modify the agreement.

The Honorable _____
Mayor, City of _____
Address _____
City, WA xxxxxx

RE: Renewal/Modification of Commute Trip Reduction Act Interlocal Agreement

Dear Mayor _____:

The Commute Trip Reduction Act (CTR) Interlocal Agreement (ILA), which describes required implementation activities, provided in ... *(select one of the following paragraphs or combine as appropriate)* ...

... Section 7.2 that the ILA "may be amended, altered, or extended only by written agreement of the County Executive and authorized representative of the City." I propose that the ILA be amended as follows (or, as in Attachment).

...I propose that the Agreement be extended, as provided in Section 7.2, for a two year period beginning June 30, _____, with modifications to Exhibit A: Scope of Work as attached.

Please indicate your concurrence with this proposal by signing where indicated below and returning this to me.

Sincerely,

Rick C. Walsh, General Manager
Metro Transit

I concur with the proposed action.

Title: _____

Date _____