

June 7, 1990

INTRODUCED BY:

PAUL BARDEN

VHG:mw/w6-grntextm.otn

PROPOSED NO.

90 - 535

MOTION NO. 8018

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A MOTION authorizing an agreement, consistent with the model agreement attached, between King County and each of the cities listed in Attachment A, for the purpose of providing King County grant funds for the planning and implementation of municipal waste reduction and recycling programs.

WHEREAS, in Washington State, the legislature has established waste reduction and recycling (WR/R) as the two highest priorities for solid waste management, and

WHEREAS, King County intends to provide technical and financial assistance to cities within the county to help devise effective and sustainable ways to significantly reduce the waste stream, and

WHEREAS, the goal of the King County matching grant program is to help cities develop innovative and sustainable WR/R programs consistent with adopted King County WR/R policy, and

WHEREAS, WR/R programs can save natural resources and energy, reduce litter, decrease disposal costs, and stimulate the local economy, and

WHEREAS, the results and experience of county grant-funded municipal WR/R programs can serve as models or examples on which other communities throughout the county and state will be able to build;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

The King County executive is hereby authorized to enter into an agreement consistent with the model agreement attached with each of the cities listed in Attachment A for the purpose of providing county grant funds for the planning and implementation of municipal WR/R programs, provided that each agreement references the grant amount and work products for which the city will be reimbursed at the end of each payment period in 1990 and 1991. Subsequent

1 grant awards shall be consistent with adopted county WR/R policy and shall be  
2 referenced by addenda to these agreements specifying the work products for  
3 each grant award.

4 PASSED this 6<sup>th</sup> day of August, 19 90.

5 KING COUNTY COUNCIL  
6 KING COUNTY, WASHINGTON

7  
8 Lois North  
Chairman

9 ATTEST:

10 Gerald A. Peterson  
11 Clerk of the Council

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**KING COUNTY WASTE REDUCTION/RECYCLING (WR/R)  
MATCHING GRANT PROGRAM AGREEMENT**

This agreement is entered into between King County, a political subdivision of the State of Washington and \_\_\_\_\_, a municipal corporation of the State of Washington, hereinafter referred to as "County" and "City" respectively. This agreement has been authorized by the legislative body of each jurisdiction pursuant to formal action as designated below:

King County Motion No. \_\_\_\_\_  
City: \_\_\_\_\_

**PREAMBLE**

This agreement is entered into for the purpose of providing County funds to cities for the planning, development, and subsequent implementation of waste reduction/recycling (WR/R) programs and activities. The County considers (WR/R) program grants as start-up funding to help create programs that will continue in effect after the grant period. The County expects information and experience relating to County-funded WR/R projects to be shared generously with the County and with other cities as soon as practicable.

**I. DEFINITIONS**

For purposes of this agreement, the following definitions shall apply:

"Recycling" means reusing waste materials and extracting valuable materials from a waste stream. (RCW 70.95.030)

"Waste reduction" means reducing the amount or type of waste generated, but shall not include reduction through energy recovery or incineration.

**II. PURPOSE**

The purpose of this agreement is to establish the respective responsibility of the parties in a County administered grant program for municipal waste reduction and recycling.

**III. DURATION**

This agreement shall become effective on September 1, 1990, and shall remain in effect through August 31, 1991.

#### IV. GENERAL OBLIGATIONS OF PARTIES

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##### 4.1. King County

A. Funding. Contingent on the availability of funds and approval by the County of the City's application for County funds, the County shall provide one year planning grants. Funds shall not have a matching requirement. The grant program expires on July 31, 1991, at which time the County will provide no additional funds and assumes no responsibility for continued support of the activities described in this agreement.

B. Disbursement of Funds. Grant funds shall be paid out quarterly on the basis of reimbursement for completed work as described in Exhibit A and any subsequent addenda to this agreement. The City shall provide documentation as specified by the County of costs and project progress. The disbursement schedule shall be quarterly.

##### 4.2. City

A. WR/R Program Planning. Grant funds are intended primarily for WR/R program planning. The City shall consider the composition of the municipal waste stream and shall devise economical and practical programs which will affect the largest portions of the waste stream and which will also be effective in educating the public and promoting behavior that leads to WR/R.

Programs shall show a commitment to a partnership with the County to address WR/R program development and continuation. The City shall structure its program to allow for the matching fund requirements of Section 4.1.a.

B. Application. The City shall submit an application for funding in 1990-1991. The County shall review the application according to criteria listed in the grant application guidelines.

C. Accounting and Reporting. The City shall keep close account of the use of funds and progress of the project. Quarterly financial and program status reports in a standard County approved format shall be submitted to the County, and the County shall have access to all records generated pursuant to the grant. A final comprehensive report on the project shall be submitted to the King County Solid Waste Division one month after expiration of the grant agreement.

D. Minority and Women's Business Utilization. For the duration of this agreement, the City shall adhere to all applicable sections of King County Code, Chapter 4.18.

## V. AUDITS AND EVALUATION

A. 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 agreement and six (6) years after termination hereof.

B. The City shall provide right of access to its facilities, including those of any contractor or 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 agreement. The County will give advance notice to the City in the case of fiscal audits to be conducted by the County.

C. The City agrees to cooperate with the County or its agent in the evaluation of the City's performance under this agreement and to make available all information reasonably required by any such evaluation process. The results and records of said evaluations shall be maintained and disclosed in accordance with RCW Chapter 42.17.

## VI. CORRECTIVE ACTION

If the County determines that a breach of this agreement has occurred; that the City has failed to comply with any terms or conditions of this agreement, or has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

1. The County will notify the City in writing of the nature of the breach;
2. The City shall respond in writing within three (3) days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies, and the proposed completion date for bringing the contract into compliance, which date shall not be more than ten (10) days from the date of the City's response;
3. The County will notify the City in writing of the County's determination as to the sufficiency of the City's corrective action plan. The determination of the sufficiency of the City's corrective action plan shall be at the sole discretion of the County;
4. In the event that the City does not respond within the appropriate time with a corrective action plan; or the City's corrective action plan is determined by the County to be insufficient, the County may commence termination of this contract in whole or in part pursuant to Section XII.A.;
5. In addition, the County may withhold any payment owed the City or prohibit the City from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed.

**VII. HOLD HARMLESS AND INDEMNIFICATION**

A. In providing services under this agreement, the City is an independent entity, not an employee of the County for any purpose. The City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes to, or on behalf of, the City, its employees or others by reason of this agreement. The City shall protect, indemnify, and hold harmless the County, its officers, agents and employees from and against any and all claims, costs and losses whatsoever occurring or resulting from 1) the City's failure to pay any such compensation, wages, benefits or taxes; and 2) the supplying to the City of work, services, materials, or supplies by agency employees or others in connection with the performance of this agreement.

B. The City further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception which occurs due to the negligence, intentional acts or failure for any reason to comply with the terms of this agreement by the City, its officers, employees, agents or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the agreement pursuant to Section XII.

C. The City shall protect, defend, and indemnify and save harmless the County, their officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the City, its officers, employees or agents. The City agrees that its obligations under this subparagraph extend to any claim, demand or cause of action brought by or on behalf of any employee of the City, against the County, its officers, agents or employees, and includes any judgement, award, and cost arising therefrom including attorney fees.

Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.

#### VIII. FORCE MAJEURE

The parties are not liable for failure to perform pursuant to the terms of this agreement when failure to perform was due to an unforeseeable event beyond the control of any party to this agreement.

#### IX. WAIVER

No waiver by either party of any term or condition of the agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or a different provision of this agreement.

#### X. THIRD PARTY BENEFICIARY

This agreement is not entered into with the intent that it shall benefit any other entity or person except those expressly described herein, and no other such person or entity shall be entitled to be treated as a third party beneficiary of the agreement.

#### XI. SEVERABILITY

If any of the provisions contained in this agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

**XII. TERMINATION OF AGREEMENT**

A. The County may terminate this agreement, in whole or in part, upon five (5) days written notice in the event: 1) the City materially breaches any duty, obligation, or service required pursuant to this agreement, or 2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the agreement is terminated by the County pursuant to this Subsection XII.A.1., the City shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the City, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the City shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the City by the County.

B. The obligations of the parties pursuant to this agreement are expressly contingent upon the appropriation and availability of sufficient funds by the King County Council. The County may terminate this agreement in whole or in part if expected or actual funding is not appropriated, withdrawn, reduced or limited in any way prior to the termination date set forth above in Section III.

**XIII. CONFLICT OF INTEREST**

A. The City covenants that no officer, employee, or agency of the County who exercises any functions or responsibilities in connection with the planning and implementation of the program funded herein, or any other person who presently exercises any functions or responsibilities in connection with the planning and implementation of the program funded herein shall have any personal financial interest, direct or indirect, in this agreement. The City shall take appropriate steps to assure compliance with this provision.

B. If the City violates the provisions of Subsection XIII.A. or does not disclose other interests, required to be disclosed pursuant to King County Ordinance No. 2294, as amended, the County shall not be liable for payment for services rendered pursuant to this agreement. Violation of this section shall constitute a substantial breach of this agreement and grounds for termination pursuant to Section XII.A.1. above as well as any other right or remedy provided by this agreement or law.

**XIV. POLITICAL ACTIVITY PROHIBITED**

None of the funds, materials, property or services provided directly or indirectly under this agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.



XV. CHANGES

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Either party may request changes to this agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this agreement. Should the funding structure described in 4.1.A. above be substantially changed, this agreement may be amended to reflect such changes, or be superseded by a new agreement.

XVI. ALL WRITINGS CONTAINED HEREIN

This agreement, appendices, and attachments contain the entire understanding between the parties, and there are no other agreements, understandings, or representations set forth or incorporated by reference herein. No subsequent modification (s) or amendment (s) of this agreement shall be of any force or effect unless in writing, signed by authorized representatives of the City and County and made a part of this original agreement.

XVII. NOTICE

IN WITNESS WHEREOF this agreement has been executed by each party on the date set forth below:

CITY

KING COUNTY

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
King County Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Pursuant to Ordinance No. \_\_\_\_\_

Pursuant to Motion No. \_\_\_\_\_

\_\_\_\_\_  
Clerk - Attest

\_\_\_\_\_  
Clerk - Attest

Approved as to form and legality

Approved as to form

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
King County  
Prosecuting Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## ATTACHMENT A

## 1990 WASTE REDUCTION/RECYCLING PLANNING GRANTS TO CITIES

<u>City</u>	<u>Amount</u>	<u>Description</u>
Federal Way	\$35,000	Gather data, assess alternative recycling strategies, public education
SeaTac	35,000	Gather data, assess alternative recycling strategies, public education
TOTAL	<hr/> \$70,000	