

March 30, 1994

Introduced by: JANE HAGUE

Proposed No.: 94-168

MOTION NO. 9270

A MOTION authorizing the county executive to execute a contract for emergency management assistance services.

WHEREAS, King County, State of Washington, discharges its responsibility to furnish emergency management assistance to its citizens by its office of emergency management under the authority of the county executive, and

WHEREAS, the Department of Community Development and Washington State Patrol are agencies of the State of Washington, and these agencies are authorized to administer and allocated Federal funds under a Hazardous Materials Uniform Safety Act grant for performance of certain emergency management assistance tasks, and

WHEREAS, the Department of community Development and the Washington State Patrol have revised their former procedures for providing such funds to now require the execution of contract documents as a vehicle therefore, and

WHEREAS, the execution of such contract documents requires the use of procedures under the Interlocal Cooperation Act, RCW Chapter 39.34;

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

A. The King County executive is hereby authorized to contract with the State of Washington, Department of Community Development, and the Washington State Patrol, substantially in the form attached (Contract Number C940003FED and 1-93-658-05) for certain emergency management assistance services.

B. The executive is requested to seek additional revenues from grant, interlocal contributions, and fee sources as part

1 of his 1995 budget proposal for emergency management. The  
2 executive is requested to consider increasing hazardous  
3 materials fees and user fees to fund emergency management  
4 services.

5 PASSED this 25<sup>th</sup> day of April, 1994

6 KING COUNTY COUNCIL  
7 KING COUNTY, WASHINGTON

Passed by a vote of 12-0.

8  
9

Kent Pullen  
Chair

10 ATTEST:

11 Gerald A. Petri  
12 Clerk of the Council

13 ATTACHMENT: Contract

**AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN**

**WASHINGTON STATE PATROL  
and  
KING COUNTY**

**CONTRACT NO. C940003FED**

This AGREEMENT is entered into by the Washington State Patrol (hereinafter referred to as WSP) and King County (hereinafter referred to as KC), West 116 King County Courthouse, Seattle, Washington 98104-2312 — telephone: (206) 296-3830.

NOW, THEREFORE, in consideration of the covenants, performances, and promises contained herein, the parties hereto agree as follows:

**FUNDING SOURCE**

Funding for this AGREEMENT is provided to KC by the WSP through the Federal Emergency Management Agency (FEMA). The total federal funds to be reimbursed to KC shall not exceed the federal funds reflected in the Scope of Services.

**SCOPE OF SERVICES**

KC will provide training for "hazardous materials awareness, operations, and incident command" for a minimum of 30 students by June 1, 1994, in King County. This training will be for the Department of Public Works and the staff of King County Government.

**AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

KC agrees to provide the following documentation to the WSP within 30 days after the completion of the this training:

1. Student rosters (names, addresses, social security numbers, telephone numbers).
2. Copies of course announcement or other printed materials generated by the King County Department of Public Safety relative to this course.
3. Original copies of the Federal Course Evaluation Forms.
  - a. Federal Emergency Management Agency (FEMA) Form 95-42 (Participant Evaluation Form)
  - b. FEMA Form 95-38 (Course Evaluation Transmittal)
  - c. FEMA Form 95-39 (Course Manager Evaluation Form)
4. Documentation on the amount of "in-kind" services provided by King County to meet the required 20 percent matching funds.

Total federal funding for the above-mentioned services shall not exceed \$1,160.

**PERIOD OF OBLIGATION**

The AGREEMENT period during which financial assistance may be provided is January 1, 1994, through June 1, 1994. The effective date of this AGREEMENT shall be the date the last party signs this AGREEMENT.

**AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

**ALLOWABLE COSTS**

Allowable costs shall include costs incurred by KC from the first date of the AGREEMENT period, until this AGREEMENT is terminated or expires as provided herein, but in no event shall allowable costs exceed the maximum amount of the AGREEMENT as provided in the Scope of Services. Costs allowable under this AGREEMENT are based on a budget approved by the WSP. The WSP shall pay to KC all allowable costs incurred from the effective date until this AGREEMENT is terminated or expires as evidenced by proper invoice, submitted to the WSP a timely basis, insofar as those allowable costs do not exceed the amount appropriated or otherwise available for such purposes as stated in the Scope of Services.

**NON-SUPPLANTING**

KC shall not use the federal or matching funds specified by this AGREEMENT to supplant local, state, or other federal funds. KC shall be eligible for reimbursement for services performed under this AGREEMENT which are in addition to services performed by KC. KC shall not use these funds to replace funding which would otherwise be made available to KC had this funding not been provided.

**PROGRAM MANAGEMENT**

The WSP Program Manager shall be responsible for monitoring the performance of this AGREEMENT; including approval and acceptance of reports provided by KC. The Program Manager shall provide and facilitate assistance and guidance to KC as necessary.

AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

PROGRAM ADMINISTRATION

KC shall notify the WSP of the program administrator who shall be responsible for the performance of this AGREEMENT. KC shall provide the WSP with the program administrator's name, address, telephone number(s), and any subsequent changes.

BUDGET REVISIONS

KC shall submit to the WSP a written request to effect any change(s) in the project budget which reflect a cumulative transfer of greater than ten (10) percent in the aggregate among budget line items as indicated on the AGREEMENT Budget Sheet. The WSP may approve or deny the request in its sole discretion.

REIMBURSEMENT PROVISIONS

1. BILLING PROCEDURES

KC shall submit an Expenditure Report and Request for Reimbursement Form to the WSP on a monthly basis, indicating the type of services rendered and costs incurred by KC during the preceding month. Within twenty (20) days after receiving and approving the required reports, the WSP shall remit payment to KC. The final reports must be submitted to the WSP within 90 days from the AGREEMENT ending date, as stated in the AGREEMENT, or within 90 days of the termination of this AGREEMENT.

**AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

2. MATCH FUNDS (20 percent of AGREEMENT)

KC shall provide a 20 percent non-federal "in-kind" match. KC may expend match funds in a greater proportion to grant funds. At a minimum, KC is obligated to expend match funds prior to the close of the AGREEMENT. Failure of KC to achieve such a match level may result in a recapture or reduction of funds. WSP reserves the right to determine the amount of reduction in its sole discretion. Any reduction of funds shall be based on a review of KC expenditure patterns, actual performance, and discussion between KC and the WSP.

3. MONTHLY RECONCILIATION

The Program Manager shall review KC's level of actual expenditure against the estimated expenditures as included on the AGREEMENT Face Sheet. Failure of KC to achieve a satisfactory level of 75 percent of estimated expenditures on a quarterly basis, may result in a reduction of funds. The WSP reserves the right to determine the amount of such a reduction in its sole discretion. Any reduction shall be based on a review of KC's spending pattern, Monthly Expenditure Report and Request for Reimbursement, and discussion between KC and the WSP.

AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

EVALUATION AND MONITORING

KC shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the WSP that are pertinent to this AGREEMENT. The WSP, the State Auditor, or a representative of FEMA, or any of their representatives shall have full access to and the right to examine during normal business hours and as often as the WSP, the State Auditor, or FEMA may deem necessary, all of KC's records with respect to all matters covered in this AGREEMENT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all AGREEMENTS, invoices, materials, payroll, and records of matters covered by this AGREEMENT. Such rights extend for three years from the date final payment is made hereunder.

ACKNOWLEDGEMENT OF FEDERAL FUNDS

KC shall comply with the special conditions listed below:

1. KC agrees that, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal funds under this AGREEMENT, including but not limited to state and local governments and school districts, shall clearly state: 1) the percentage of the total cost of the program or project which will be financed with federal funds; and 2) the dollar amount of federal funds for the project or program;



**AGREEMENT SPECIFIC TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

**ENTIRE AGREEMENT**

This AGREEMENT contains the entire agreement of the parties and may not be modified or amended except as provided herein. KC shall perform in accordance with the specific and general terms and conditions of this AGREEMENT. No other understanding, oral or written, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any of the parties hereto. KC shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments. This AGREEMENT consists of the following documents:

1. AGREEMENT Specific Terms and Conditions;
2. AGREEMENT General Terms and Conditions;
3. Budget Sheet.

**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN****WASHINGTON STATE PATROL  
and  
KING COUNTY****CONTRACT NO. C940003FED****ORDER OF PRECEDENCE**

In the event of any inconsistency in this AGREEMENT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal statutes and regulations.
2. Applicable state statutes and regulations.
3. AGREEMENT Specific Terms and Conditions.
4. AGREEMENT General Terms and Conditions.

**AGREEMENT MODIFICATIONS**

KC and the WSP may request changes in services to be performed with the funds, or in the amount of funds to be reimbursed to KC. Any such changes that are mutually agreed upon by KC and the WSP shall be incorporated herein by written amendment to this AGREEMENT. It is mutually agreed and understood that no alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein, unless made in writing and signed by the parties hereto, shall not be binding.

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

DUPLICATION OF COSTS

KC certifies that work to be performed under this AGREEMENT does not duplicate any work to be charged against any other AGREEMENT, SUBCONTRACT, or other funding. KC shall include the provisions of this clause in any SUBCONTRACT.

NONDISCRIMINATION

During the performance of this AGREEMENT, KC shall comply with the KC nondiscrimination plan and the federal and state laws upon which it is based. Requirements of the nondiscrimination plan are hereby incorporated by reference, and include, but are not limited to:

1. Nondiscrimination in employment: KC shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. KC shall take affirmative action to ensure that employees are employed and treated during employment without discrimination because of their race, color, religion, sex, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or selection for training, including apprenticeships and volunteers.

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

2. Nondiscrimination in services: KC shall not discriminate against any person eligible for services or participating in the program because of race, color, sex religion, nation origin, creed, marital status, age, Vietnam Era or disabled veterans status or the presence of any sensory, mental or physical handicap.
3. Religious Activity: KC shall not use any curricula or materials which have any religious orientation. KC shall not require participants under this AGREEMENT to participate in any religious activity.

NONCOMPLIANCE WITH NONDISCRIMINATION PLAN

In the event of KC noncompliance or refusal to comply with the above nondiscrimination plan, this AGREEMENT may be rescinded, canceled or terminated in whole or in part, and KC may be declared ineligible for further AGREEMENTS with the WSP. KC shall, however, be given a reasonable time, in no event to exceed thirty (30) days, in which to correct this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedures set forth herein.

COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

KC must comply with the Americans with Disabilities Act of 1990, 42 USC 12101 et.seq 600D, also referred to as the "ADA" and the rules 28 CFR Part 35. This act provides comprehensive civil rights protection to individuals with a record of, or regarded as having sensory, mental or physical impairment in the area of employment, public accommodations, state and local government services, and telecommunications.

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

USE OF MINORITY AND WOMEN BUSINESS ENTERPRISES

KC shall provide the maximum opportunity to Minority and Women Business Enterprises to participate in the performance of the AGREEMENT. This condition shall be included in all available SUBCONTRACTS.

INDEMNIFICATION

KC shall defend, protect, indemnify, save and hold harmless the WSP from and against any and all claims, costs, damages, expenses, or liability including reasonable attorneys' fees for any and all injuries to persons or tangible property, arising from the acts or omissions of KC or any authorized SUBCONTRACTOR, or any employees or agents of either in the performance of this AGREEMENT, howsoever caused. In the case of negligence of both KC and the WSP, damages shall be levied in proportion to the percentage of negligence attributed by the Court to each party. KC is responsible for ensuring that the SUBCONTRACTOR(s) include a comprehensive indemnification clause holding harmless KC, the WSP, and the State of Washington.

PROGRAM INCOME

Program income generated by interest-bearing accounts or otherwise under this AGREEMENT shall be used for operational expenses not included in the total approved budget.

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

PROCUREMENT STANDARDS

KC shall establish procurement policies and procedures for all purchases funded by this AGREEMENT as follows:

1. Establish a code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of bids using AGREEMENT funds.
2. Ensure that all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
3. KC and SUBCONTRACTORS shall be required to receive prior approval from the WSP for using funds from this AGREEMENT to enter into a sole source AGREEMENT or an AGREEMENT where only one bid or proposal is received when value of the AGREEMENT is expected to exceed \$5,000. Prior approval requests shall include: a copy of the proposed AGREEMENT, any related procurement documents, and justification for noncompetitive procurement, if applicable.

NONASSIGNABILITY OF CLAIMS

KC shall not assign or transfer any claim arising under this AGREEMENT.

RIGHTS OF DATA

All finished or unfinished documents, data, studies, surveys, drawings, models, photographs, films, duplicating plates, computer disks, and reports prepared by KC under this AGREEMENT shall be for the common use of both KC and the WSP. The WSP may

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

duplicate, use, and disclose in any manner, and for any purpose whatsoever, all material prepared under this AGREEMENT. KC shall be required to obtain prior approval of the WSP to produce patents, patent rights, inventions, original books, manuals, films, or other patentable or copyrightable materials, in whole or in part, with funds received under this AGREEMENT. The WSP reserves the right to determine whether protection of inventions or discoveries shall be disposed of and administered in order to protect the public interest. Before KC copyrights any materials produced with funds under this AGREEMENT, the WSP reserves the right to negotiate a reasonable royalty fee and agreement.

RECAPTURE PROVISION

In the event KC fails to expend funds in accordance with state or federal law or the provisions of this AGREEMENT, the WSP reserves the right to recapture funds in an amount equivalent to the extent of the noncompliance. Such right of recapture shall exist for a period not to exceed three (3) years following termination of this AGREEMENT. Repayment by KC of funds under this recapture provision shall occur within thirty (30) days of demand.

WRITTEN POLICIES AND PROCEDURES

Written policies and procedures consistent with federal and state regulations, as applicable, shall be kept on file in the office of KC or its local programs and available for review. Such policies and procedures shall include, but not be limited to: personnel regulations; job

**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

descriptions; organizational charts; travel regulations; fiscal management regulations, and an Affirmative Action Policy and Plan.

**DOCUMENTS ON FILE**

Documents consistent with federal and state regulations, as applicable, shall be kept on file in the office of KC or its local programs and available for review. Such documents shall include, but not be limited to: Articles of Incorporation/Tribal Charter; bylaws; IRS Nonprofit Status Certification; latest agency audit; and insurance policies and bonding required by the AGREEMENT.

**APPLICABLE LAWS AND REGULATIONS**

KC shall comply with all applicable laws, ordinances, codes, regulations, and policies of state and federal governments, as now or hereafter amended.

**RECORDS AND DOCUMENTS**

KC shall maintain books, records, documents, and other evidence which properly reflect all costs of any nature expended in the performance of this AGREEMENT. Such records shall reflect financial procedures and practices, participant records, statistical records, property and materials records and supporting documentation. These records shall be subject at all reasonable hours to review and audit by the WSP, the Office of the State Auditor, and state and federal officials so authorized by law. KC shall retain all such records for a period of three (3) years from the termination of the AGREEMENT. If any litigation or audit is begun



**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

in the period during which records must be retained, or if a claim is initiated involving the AGREEMENT or any related agreement, KC must retain the related records until the litigation, audit, or claim has been finally resolved.

**LOBBYING FOR GRANTS AND COOPERATIVE AGREEMENTS**

1. No funds will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an officer or employee of Congress, or an employee of a member of Congress in connection with the making of this AGREEMENT, if funded, in whole or in part, with federal funds.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, KC shall complete and submit Standard Form - III, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. KC shall require that the language of this certification be included in the AGREEMENT language for all SUBCONTRACTORS at all tiers and that all SUBCONTRACTORS shall certify and disclose accordingly.

**POLITICAL ACTIVITIES PROHIBITED**

No funds may be used in working for or against ballot measures or for or against the candidacy of any person for public office.

AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)

DISPUTES

In the event that a dispute arises under this AGREEMENT, it shall be determined in the following manner: KC and the WSP shall each appoint a member to the Dispute Board.

The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

TERMINATION OF AGREEMENT

1. If, through any cause, KC shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if KC shall violate any of the covenants, agreements, or stipulations of this AGREEMENT, the WSP shall thereupon have the right to terminate this AGREEMENT and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to KC describing such default or violation.
2. Notwithstanding any provisions of this AGREEMENT, either party may terminate this AGREEMENT by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.
3. Reimbursement for KC services performed, and not otherwise paid for by the WSP prior to the effective date of such termination, shall be as the WSP reasonably determines.
4. The WSP may immediately and unilaterally terminate all or part of this AGREEMENT, or may reduce its scope of service and budget, if there is a reduction in funds by the

**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

source of those funds, and if such funds are the basis for this AGREEMENT. Such termination shall be effective when the WSP sends written notice of termination to KC.

**SEVERABILITY**

In the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or application of this AGREEMENT which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this AGREEMENT are declared severable.

**SINGLE AUDIT ACT REQUIREMENTS**

All program funds awarded under this AGREEMENT shall be audited on an annual basis.

KC shall:

1. Adhere to the federal Office of Management and Budget (OMB) Circular A-128 (local governments), and A-102 (administrative requirements), and other applicable federal and state regulations;
2. Provide access to independent auditors to its financial records;
3. Maintain accounting records that will enable separate identification of all funds received and expended, and assure that SUBCONTRACTORS also maintain records which are auditable. KC shall be responsible for any audit exceptions incurred by its own organization or that of its SUBCONTRACTORS. The WSP reserves the right to recover disallowed costs resulting from the final audit;

**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

4. KC shall be responsible for sending three (3) copies of the audit report to the WSP as soon as it is available; and
5. The WSP shall include these requirements in all approved cost reimbursement  
SUBCONTRACTS.

**AGREEMENT GENERAL TERMS AND CONDITIONS BETWEEN  
WASHINGTON STATE PATROL AND KING COUNTY (continued)**

IN WITNESS WHEREOF, the Washington State Patrol and King County have executed this AGREEMENT as of the date and year written below:

*RW Bruett*  
Roger W. Bruett, Chief  
Washington State Patrol

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

2-14-94  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Fed. Employer ID No./Social Security No.

*Chris H. ...*  
Assistant Attorney General

\_\_\_\_\_  
King County Deputy Prosecutor

2/8/94  
Date

\_\_\_\_\_  
Date

*T. A. ...*  
Washington State Patrol  
Budget and Fiscal Services

\_\_\_\_\_  
Lavon McCord, Manager  
Office of Emergency Management

2-14-94  
Date

\_\_\_\_\_  
Date

**BUDGET SHEET**

**WASHINGTON STATE PATROL  
and  
KING COUNTY**

**CONTRACT NO. C940003FED**

Instructor Costs .....	\$ 560.00
Goods and Services .....	600.00
Travel (including per diem) .....	0.00
	<hr/>
<b>TOTAL</b>	<b>\$1,160.00</b>