



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 11, 2012

Ordinance 17498

Proposed No. 2012-0473.1

Sponsors von Reichbauer, McDermott,
Gossett, Lambert, Patterson and Hague

1 AN ORDINANCE authorizing the King County executive
2 to execute an interlocal agreement with the city of Pacific
3 relating to the provision of temporary services; and
4 declaring an emergency.

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 SECTION 1. Findings.

7 A. On July 2, 2012, the city of Pacific was notified by the Cities
8 Insurance Association of Washington (CIAW) that the city's membership in the
9 CIAW and therefore its liability insurance coverage will be cancelled, effective
10 December 31, 2012. On November 13, 2012, the Pacific city council adopted
11 Resolution No. 12-1213 to file for an election on disincorporation of the city. The
12 election date has not been set but could occur in the first quarter of 2013.

13 B. If, due to the cancellation of insurance, key city officials and
14 employees fail to report for work on January 1, 2013, certain city services may be
15 delayed, reduced or not provided. It is necessary to make other temporary
16 provision for services necessary for the protection of public health, public safety,
17 public property and public peace in the city.

18 D. The city straddles the King County and Pierce County border. The
19 city has requested the county, within available resources, to endeavor to provide

20 temporary services related to law enforcement, roads and surface water
21 management in the King County portion of the city.

22 E. To avoid the risk to the public peace, health, and safety if these
23 services are not available commencing January 1, 2013, it is necessary that this
24 ordinance be enacted as an emergency ordinance.

25 SECTION 1: The King County executive is hereby authorized to enter into an
26 interlocal agreement, substantially in the form of Attachment A, with the city of Pacific
27 relating to the provision of temporary services.

28

29 SECTION 2: The county council finds as a fact and declares that an emergency
30 exists and that this ordinance is necessary for the immediate preservation of public peace,
31 health or safety or the support of county government and its existing public institutions.
32


Ordinance 17498 was introduced on 12/3/2012 and passed by the Metropolitan King
County Council on 12/10/2012, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Dunn and Mr. McDermott
No: 0
Excused: 1 - Mr. Ferguson

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: A. Interlocal Agreement

INTERLOCAL AGREEMENT BETWEEN THE CITY OF PACIFIC AND KING COUNTY, RELATING TO THE PROVISION OF TEMPORARY SERVICES

THIS AGREEMENT is made and entered into this ___ day of _____, 2012. The parties ("Parties") to this Agreement are the City of Pacific, a State of Washington municipal corporation ("City"), and King County, a political subdivision of the State of Washington ("County").

WHEREAS, on July 2, 2012, the City was notified by the Cities Insurance Association of Washington (CIAW) that the City's membership in the CIAW and therefore its liability insurance coverage will be cancelled, effective December 31, 2012; and

WHEREAS, if key City officials and employees fail to report for work on January 1, 2013, due to the cancellation of insurance, certain City services may be delayed, reduced, or not provided; and

WHEREAS, the City desires to make arrangements so that some services may be available in the City to assist with the protection of public health, public safety, public property and public peace; and

WHEREAS, the City has requested and the County has agreed, within available resources, to endeavor to provide temporary services for the City to assist with the protection of public health, public safety, public property and public peace in the King County portion of the City; and

WHEREAS, the City straddles the King County and Pierce County border with 6,514 people (based on the 2010 Census) and 2.89 square miles in King County and with 92 people and .59 square miles in Pierce County, any services to be provided by King County will be performed only within that portion of the City that resides within King County; and

WHEREAS, the governing bodies of each of the Parties hereto have determined to enter into this Agreement as authorized and provided for by the Interlocal Cooperation Act, codified at Chapter 39.34 RCW, and other Washington law, as amended;

NOW THEREFORE, in consideration of the mutual terms, provisions and obligations contained herein, it is agreed by and between the City and the County as follows:

1. TERM. This Agreement shall take effect on January 1, 2013, if the City is without liability insurance coverage on that date. The Agreement shall continue in force for a period of six (6) months from the effective date unless terminated earlier or extended in writing by the duly authorized representative of each of the Parties, such extension not to exceed _____.
2. TERMINATION AND NOTICE OF TERMINATION. This Agreement is terminable by either Party without cause and in its sole discretion if such Party

provides written notice to the other Party no later than three (3) calendar days prior to the termination date.

3. SERVICES. Within its available resources and within its sole discretion, the County will endeavor to provide the following services within the King County boundaries of the City.
 - a. Law Enforcement Services
 - (i) Major crime investigations. Major crime investigations include homicide, robbery, felony assault, and investigation of tips regarding “cold” homicide and missing person cases.
 - (ii) Patrol services. Response patrol services for the enforcement of state law including reactive patrol to respond to calls for service from residences and businesses, proactive patrol to prevent and deter criminal activity, and traffic patrol to enforce applicable state traffic codes. The timing, frequency, and number of patrol service hours shall be at the County’s sole discretion.
 - (iii) 911 Response. Effective 00:00:01 on January 1, 2013, communications/E911 dispatch and response, contingent on the City ensuring that all communications/E911 dispatch calls are transferred from Valley Communications to the King County Sheriff’s Office Communications Center beginning at that time. The City must make similar communications/E911 dispatch and response protocol changes with the Pierce County Sheriff’s Office for the boundaries of the City within Pierce County.
 - b. Road Services. Road services for critical road safety problems of which the County receives notification. Critical road safety problems include traffic signal malfunctions and weather-related road hazards that the County determines pose an imminent threat to public safety.
 - c. Surface Water. Services to address unexpected and critical surface water issues that present a threat to the safety of City residents, and of which the County receives notification.
4. OBSTRUCTION OF SERVICES. Should any City employee or official hinder, obstruct, or delay the County’s provision of any service under this Agreement, the County in its sole discretion and without prior notice to the City, may immediately cease provision of the service. As soon as practicable thereafter, the County will notify the City that the service has ceased.
5. PAYMENT FOR SERVICES. The City shall pay the County for all costs incurred in the provision of services pursuant to this Agreement.

- a. Calculation of Cost. The cost of services shall be calculated by the County and shall reflect the total costs (direct labor, employee benefits, equipment rental, materials and supplies, utilities, permits, and administrative overhead costs) for the services provided by the County. Administrative overhead costs for each work item shall be charged as a percentage of direct labor costs.
- b. Invoices. Within sixty (60) days of the provision of the services pursuant to this Agreement, the County will invoice the City for the cost of services. The City shall pay the invoice within sixty (60) days of the date of the invoice.
- c. Late Payment. Invoices not paid by the City as provided in this Agreement will be subject to an interest charge of one percent (1%) per month.
6. WAIVER OF BINDING ARBITRATION. The Parties waive and release any right to invoke binding arbitration under RCW 39.34.180 or other applicable law as related to this Agreement, any extension or amendment of this Agreement, or any discussions or negotiations relating thereto.
7. CONTACT PERSONS. The Parties stipulate that the persons designated in this section shall be the contacts for their respective jurisdictions for purposes of this Agreement. Either Party may change its contact person(s) upon written notice to the other Party.
- a. Administrative Contacts. The following persons shall be the administrators of this Agreement and shall be the contact persons for administrative issues.
- | | |
|-------------------------------|-------------------------------------------|
| City of Pacific: | King County: |
| | Dwight Dively |
| City Clerk | Director, Office of Performance, Strategy |
| City of Pacific | and Budget |
| 100 3 rd Avenue SE | King County |
| Pacific, WA 98047 | 401 – 5 th Avenue, Suite 810 |
| | Seattle, WA 98104 |
- b. Operational Contacts. The operational contact persons are listed at Exhibit A to this Agreement.
- c. Sufficiency of Notice. Should the County be unable to deliver notice to the City as provided in this section for any reason including the closure of City offices and/or the failure of City personnel to report for work, sending the notice to the offices of City Attorney Kenyon Luce shall be deemed to satisfy the notice requirements of this Agreement.
8. COMPLIANCE WITH LAWS. Each Party accepts responsibility for compliance with federal, state, and local laws and regulations. By executing this Agreement, the

Parties do not purport to abrogate the decision-making responsibility vested in them by law.

9. CITY ORDINANCES, RULES AND REGULATIONS. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney fees.

10. INDEMNIFICATION.
 - a. The County shall indemnify and hold harmless the City and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense, provided that the City retains the right to participate in said suit if any principal of governmental or public law is involved. If final judgment be rendered against the City and its officers, agents, and employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

 - b. The City shall indemnify and hold harmless the County and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the City, its officers, agents, and employees, or any of them, in performing obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the City shall defend the same at its sole cost and expense, provided that the County retains the right to participate in said suit if any principal of governmental or public law is involved. If final judgment be rendered against the County and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees or any of them, the City shall satisfy the same.

 - b. The City and the County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses and damages are caused by or result from the concurrent negligence of the City, its agents, employees, and/or officers and the County, its agents, employees, and/or officers, this section shall be valid and

enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

- c. The foregoing indemnity is specifically intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
- d. The provisions of this Indemnification section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

11. ACTIONS CONTESTING AGREEMENT. Each Party shall appear and defend any action or legal proceeding brought to determine or contest: (i) the validity of this Agreement; or (ii) the legal authority of the City and/or the County to undertake the activities contemplated by this Agreement. If both Parties to this Agreement are not named as parties to the action, the Party named shall give the other Party prompt notice of the action and provide an opportunity to intervene. Each Party shall bear any costs and expenses taxed by the court against it; any costs and expenses assessed by a court against both Parties jointly shall be shared equally.

12. GENERAL PROVISIONS.

- a. Entire Agreement. This Agreement together with all Exhibits hereto contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- b. Filing. A copy of this Agreement shall be filed or listed by each Party as required by chapter 39.34 RCW.
- c. Amendments. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.
- d. Severability. If one or more of the clauses of this Agreement is found to be unenforceable, illegal, or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal, or contrary to public policy.
- e. Assignment. Neither the City nor the County shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

- f. Successors in Interest. Subject to the foregoing subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.
- g. Attorneys' fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses.
- h. No waiver. Failure of either the County or the City to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.
- i. Applicable Law. Washington law shall govern the interpretation of this Agreement. King County shall be the venue of any arbitration or lawsuit arising out of this Agreement.
- j. Authority. Each individual executing this Agreement on behalf of the City and the County represents and warrants that such individuals are duly authorized to execute and deliver the Agreement on behalf of the City or the County.
- k. Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth above in Section 7. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the addresses set forth above in Section 7. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.
- l. Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.
- m. Equal Opportunity to Draft. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.
- n. Third Party Beneficiaries. This agreement is made and entered into for the sole protection and benefit of the Parties hereto. No resident of the City nor any other person or entity shall have any right of action or interest in this Agreement.

IN WITNESS THEREOF, the Parties have executed this Agreement.

CITY OF PACIFIC:

KING COUNTY:

Council Chair

Dow Constantine, Executive

Date: _____

Date: _____

ATTEST:

ATTEST:

City Clerk

DATED: _____

DATED: _____

Approved as to Form:

Approved as to Form:

City Attorney

Sr. Deputy Prosecuting Attorney