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80-554

MOTION NO. _____

A MOTION relating to the County's application for funds from the Washington State Jail Commission to construct and remodel jail facilities; specifying policy and process to negotiate jail use agreements with participating jurisdiction, per the provision of R.C.W. 70.48.

WHEREAS, under the provision of R.C.W. 70.48, City and County Jail Act, King County and participating jurisdictions have jointly submitted an application for funds, from the Washington State Jail Commission, to construct and remodel jail facilities in King County, and

WHEREAS, R.C.W. 70.48.090 states that, when state funds are provided to construct or remodel a jail in one governing unit that will be used to house prisoners of other governing units, the jail service agreements shall be for a minimum term of ten years, and

WHEREAS, R.C.W. 70.48.090 states that jail service agreements will give one governing unit the responsibility for the operation of jails, specify the responsibilities of each governing unit involved, including the applicable charges for custody of the prisoners as well as the basis for adjustment in charges, and

WHEREAS, the funding application submitted by King County to the Washington State Jail Commission makes note of the fact that current jail service agreements will be renegotiated, per the provisions of R.C.W. 70.48.090, in the form of each jurisdiction's chief executive officer having signed a Statement of Intent to enter into negotiations to execute an agreement that will comply with said statutory provisions, and

1 WHEREAS, R.C.W. 70.48.090 clearly states that contracts for
2 jail services may be made between a county and city located within
3 the boundaries of a county, and

4 WHEREAS, when the Washington State Legislature approved the
5 City and County Jails Act, R.C.W. 70.48, it adopted the intent
6 of R.C.W. 36.63.150 while repealing the statute, and

7 WHEREAS, R.C.W. 36.63.150, Joint County and City or Town
8 Jails, before being repealed by the passage of R.C.W. 70.48,
9 had provided that any city could contract with a county for
10 jail services to house prisoners convicted of offenses against
11 any statute or any ordinance of the contracting city punishable
12 by a jail sentence, and

13 WHEREAS, 36.63.150 when adopted had been based on Laws of
14 1917, Chapter 103, Section 3, R. R. S. 10206, which repeated
15 the authority of cities and counties to contract for jail
16 services, and

17 WHEREAS, an Attorney General's opinion in 1949, No. 49-51-129,
18 regarding a question of appropriations by cities or towns and
19 counties for the purpose of executing an agreement for use of
20 a county jail, stated that the statute authorizes such agreemtns
21 but the law "...does not purport to regulate the terms thereof,
22 such matters being left to the sound legal discretion of the
23 governing bodies of the respective parties...", and

24 WHEREAS, it is clear that the provisions of jail service
25 agreements, per R.C.W. 70.48, are a matter of contract by negotia-
26 tion for the housing of other jurisdictions' prisoners not
27 being materially affected regardless of whether the filed
28 charges has a basis in local ordinance or statute, and

29 WHEREAS, R.C.W. 70.48.130, Emergency or necessary health
30 care for confined persons - Reimbursement procedures - Conditions-
31 Limitations, provides by statute a process for a governing unit
32 to obtain reimbursement from other participating jurisdictions
33

1 for the cost of emergency and other health care provided, and

2 WHEREAS, under the provisions of R.C.W. 70.48.130, ultimately
3 fiscal responsibility rests with the unit of government whose
4 law enforcement officers initiated the charges on which the
5 person is being held in the jail, and

6 WHEREAS, per R.C.W. 70.48.130, there shall be no right of
7 reimbursement to the governing unit from units of government
8 whose law enforcement officers initiated the charges for which
9 a person is being held in the jail for care provided after
10 the charges are disposed of by sentencing or otherwise, the
11 arresting jurisdiction's responsibility having been ended by
12 virtue of the charge being eliminated or the prisoner becoming
13 a County or State institutional responsibility by virtue of
14 being sentenced, and

15 WHEREAS, per R.C.W. 70.48.130, a governing unit may continue
16 to receive reimbursement for services if the conditions allowing
17 for the same following disposition of the charge or sentencing
18 are covered by a jail service agreement with participating
19 jurisdictions, pursuant to R.C.W. 39,34, and

20 WHEREAS, the practical rule of a unit of government, whose
21 law enforcement officers initiated the charges on which a person
22 is being held, being responsible for the costs of housing the
23 same to the point of sentencing or the elimination of charges
24 should be the County's minimum position in negotiating jail
25 service agreements, and

26 WHEREAS, such a position would enable King County to negotiate
27 fair contracts, based on the guiding principle of simple equity
28 among users, and

29 WHEREAS, the only exception to such a negotiating position
30 should be that those municipal jurisdictions exercising sentencing
31 authority by virtue of a separate court system would continue to
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1 pay the costs of housing prisoners to the point of release from
2 the facility, and

3 WHEREAS, such an exception to a minimum county position
4 preparatory to negotiations recognizes historical and legal facts,
5 where consolidated facilities have not previously existed and
6 individual municipal corporations, having a municipal court system,
7 were fiscally responsible for paying the costs of housing prisoners
8 charged, found guilty, and sentenced to jail by virtue of a
9 violation of local ordinance, and

10 WHEREAS, such an exception to a minimum county position
11 preparatory to negotiation is consistent with prior legal decision,
12 such as Bellingham v. Schampera (1960), in which it was ruled
13 that when the conviction of a violation of an ordinance of a city
14 of the first class is upheld on appeal to superior court, superior
15 court must designate city jail as the place of confinement in the
16 event a jail sentence is imposed unless the city by arrangement
17 with the county uses the county jail for the detention of
18 prisoners, and

19 WHEREAS, there is a need for all participating jurisdictions
20 to expeditiously begin negotiations so that the issue of negotia-
21 ting agreements will not impact the schedule or costs proposed
22 leading to the construction or remodeling of jail facilities,
23 and

24 WHEREAS, there is a need, because of the magnitude of costs
25 and the complexity of issues, that the Council be fully involved
26 in such negotiations to insure that county policy remains clear
27 and concise at all points of the negotiation process, and

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

29 The Executive is directed to immediately take whatever action
30 is necessary, including forwarding appropriate ordinances to the
31 Council, conducting required selection processes, resulting in the
32 employment of a qualified firm to represent the County's interests
33 in immediately beginning negotiations with participating juris-

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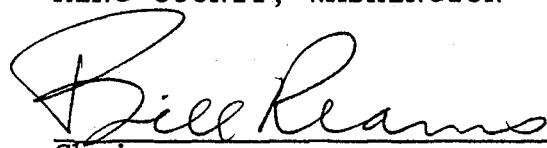
1 dictions, who are a party with King County in the funding
 2 application submitted to the Washington State Jail Commission,
 3 resulting in jail use service agreements, per the provision of
 4 R.C.W. 70.48.090, the agreements to be approved by the Council and
 5 participating jurisdictions; PROVIDED THAT, the County's position
 6 shall be that jurisdictions' payment of costs to King County shall
 7 be guided by the principle of simple equity among users;

8 1. Jurisdictions whose law enforcement officers initiated
 9 the charge on which the person is being held in the jail are
 10 responsible for the costs of housing such persons up to the
 11 point that charges are disposed with by sentencing or otherwise;
 12 and

13 2. The only exception to such a policy shall be that those
 14 municipal jurisdictions exercising sentencing authority for the
 15 violation of local ordinances by virtue of a separate court system,
 16 would continue to pay the costs of housing prisoners to the point
 17 of release from the facility, PROVIDED FURTHER THAT, at a minimum,
 18 the Operations, Police and Judiciary Committee shall be kept fully
 19 informed of the status and progress of negotiations.

20 PASSED this 28th day of April, 19 80.

21 KING COUNTY COUNCIL
 22 KING COUNTY, WASHINGTON

23 
 24 Chairman

25
 26 ATTEST:

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 28
 29  DEPUTY
 30 Clerk of the Council