

July 16, 1992  
92-537S.TRN

Introduced by: Bruce Laing

Proposed No.: 92-537

**8729**

MOTION NO. \_\_\_\_\_

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A MOTION authorizing the county executive to enter into an agreement with the Washington State Energy Office to accept technical assistance grant funds as required by RCW 70.94.544 in the approximate amount of \$2,741,000 for the July 1, 1991 to June 30, 1993 state biennium and also authorizing the county executive to enter into an agreement with the cities within the county required to plan under Chapter 70.94 RCW to distribute technical assistance grant funds as required by that Chapter.

WHEREAS, the Commute Trip Reduction ("CTR") Act (Chapter 70.94 RCW) requires that each county with a population over 150,000, and each city within those counties containing an employer having 100 or more employees shall adopt by ordinance and implement a commute trip reduction plan, and

WHEREAS, the CTR Act requires that technical assistance grants shall be made available by the State to assist counties, cities and towns implementing commute trip reduction plans, and

WHEREAS, the CTR Act provides further that CTR grant funds shall be distributed among the counties in proportion to the number of major employers and major worksites in each county and that the counties shall subsequently provide funds to cities within the county in proportion to the number of major employers and major worksites in each city, and

WHEREAS, the Washington State Energy Office ("WSEO") has developed an intergovernmental agreement (Attachment A) with the affected counties which provides for the transfer of the CTR technical assistance grant funds to the counties as required by statute, and

WHEREAS, a coordinating committee of representatives from King County, the Municipality of Metropolitan Seattle ("Metro") and each of the affected cities has developed an interlocal agreement (Attachment B) between the county and each of the affected cities within the county which provide for the

1 transfer of CTR technical assistance grant funds to the cities,  
2 and

3 WHEREAS, it has been agreed that King County should enter  
4 into an agreement with Metro for the implementation of certain  
5 county-wide CTR start-up tasks which will benefit the county  
6 and the affected cities;

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

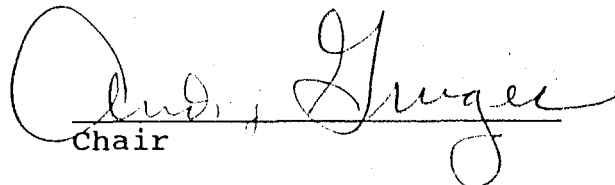
8 A. The county executive is hereby authorized to enter  
9 into an agreement with the Washington State Energy Office in  
10 substantially the same form as in Attachment A of this motion  
11 to accept CTR technical assistance grant funds in the  
12 approximate amount of \$2,741,000 for the July 1, 1991 to June  
13 30, 1993 biennium, to be distributed among King County and the  
14 cities within King County that are required to implement  
15 commute trip reduction plans under the CTR Act.

16 B. The King County executive is hereby authorized to enter  
17 into agreements in substantially the same form as in Attachment  
18 B of this motion with the affected cities to distribute CTR  
19 technical assistance grant funds among the county and the  
20 cities, and with Metro to provide CTR start-up tasks to benefit  
21 the county and the affected cities.

22 C. The King County executive is directed to prepare and  
23 submit to the council a supplemental appropriation ordinance  
24 for disbursement of CTR technical assistance grant funds to  
25 cities and Metro, in accordance with the interlocal agreement  
26 in Attachment B of this motion.

27 PASSED this 20th day of July, 1992.

28 KING COUNTY COUNCIL  
29 KING COUNTY, WASHINGTON

30   
31 Chair

32 ATTEST:

33   
34 Clerk of the Council

June 1992

**INTERGOVERNMENTAL AGREEMENT****Development and Implementation of Commute Trip Reduction (TDM) Plans and Programs**

Washington State Energy Office AND  
809 Legion Way S.E., P.O. Box 43168  
Olympia, WA 98504-3168  
Re: Kristine Burton  
Maximum Amount: **\$2,741,000**  
Beginning Date: **July 1, 1991**

King County  
500 4th Avenue, King Co. Admin. Building  
Seattle, WA 98104  
Re: John Bodoia

Expiration Date: June 30, 1993

This Agreement, entered into by and between King County (hereinafter referred to as the COUNTY or CONTRACTOR) and the Washington State Energy Office (hereinafter referred to as the ENERGY OFFICE), WITNESS THAT:

WHEREAS, the ENERGY OFFICE has the statutory authority under Sec. 301. sp.s. c.16 s.301 (3) of the Natural Resources budget 1992 to provide assistance to local governments serving the communities of the state, for the purpose of implementing commute trip reduction plans; and

WHEREAS, the ENERGY OFFICE also has the responsibility to administer programs and projects assigned to the ENERGY OFFICE by the Governor or the Washington State Legislature.

WHEREAS, the legislature has enacted SSHB 1671 (Washington's Transportation Demand Management Act, Chapter 202, Laws 1991) which directs the ENERGY OFFICE proportionally distribute funds to the counties and that the counties proportionally distribute the funds to the cities with Commute Trip Reduction plans; and

WHEREAS, the ENERGY OFFICE hereby desires to engage the COUNTY to perform certain tasks as hereinafter agreed upon by both parties.

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promised hereinafter contained, the parties hereto agree as follows:

1. **FUNDING**  
The total funds to be reimbursed to the COUNTY for the agreement period shall not exceed **\$2,741,000**.
2. **SERVICE PROVISIONS**  
Funds provided to the COUNTY under this AGREEMENT shall be used solely for activities undertaken to fulfill the requirement of the Transportation Demand Management Act and to implement the commute trip reduction law as described in the STATEMENT OF WORK, which, by this reference, is made a part of this AGREEMENT.
3. **AGREEMENT PERIOD**  
The effective date of this AGREEMENT shall be **July 1, 1991**. The termination date shall be **June 30, 1993**.

*ATTACHMENT A*

4. DISBURSEMENT PROVISIONS

The COUNTY shall submit an invoice voucher (Form A19) to the ENERGY OFFICE at the beginning of each quarter. Within ten (10) days after receiving the voucher and upon approval, the ENERGY OFFICE shall remit to the COUNTY a warrant for payment. The first such warrant shall be in an amount equal to one half (to the nearest dollar) of the total amount to be remitted to the county under this AGREEMENT. All subsequent warrants shall be in the amount equal to one eighth (to the nearest dollar) of the total amount to be remitted to the county under this AGREEMENT.

5. EVALUATION AND MONITORING

a) The COUNTY shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the ENERGY OFFICE that are pertinent to the intent of this AGREEMENT.

b) The ENERGY OFFICE or the State Auditor and any of their representatives shall have full access to and the right to examine during normal business hours and as often as the ENERGY OFFICE or the State Auditor may deem necessary, all the COUNTY'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 contracts, invoices, materials, payrolls, and records of matters covered by this AGREEMENT. Such rights last for three years from the date final payment is made hereunder.

6. ANNUAL REPORTING

The COUNTY shall remit to the ENERGY OFFICE a county wide report containing information sufficient for the ENERGY OFFICE to adequately and accurately assess the progress made by each jurisdiction in implementing the state Transportation Demand Management Act. This report shall be submitted to the ENERGY OFFICE no later than June 30, 1993.

7. EMPLOYMENT PROVISIONS

There shall be no discrimination against any employee who is paid by the funds indicated in the AGREEMENT or against any applicant for such employment because of race, religion, color, sex, marital status, creed, national origin, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rate of pay or other forms of compensation, and selection for training.

8. AGREEMENT MODIFICATIONS

The ENERGY OFFICE and the COUNTY may, from time to time, request changes in service to be performed with the funds. Any such changes that are mutually agreed upon by the ENERGY OFFICE and the COUNTY shall be incorporated herein by written amendment of 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, shall not be binding.

9. TERMINATION OF AGREEMENT

a) If, through any cause, the COUNTY shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if the COUNTY shall violate any of its covenants, agreements or stipulations of this AGREEMENT, the ENERGY OFFICE 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 the COUNTY describing such default or violation.

- b) 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. Reimbursement for services performed by the COUNTY, and not otherwise paid for by the ENERGY OFFICE prior to the effective date of such termination shall be paid as a pro rata portion of the applicable quarterly reimbursement amount.

10. SPECIAL PROVISION

The ENERGY OFFICE'S failure to insist upon the strict performance of any provision of this AGREEMENT or to exercise any right based upon breach thereof or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this AGREEMENT.

11. HOLD HARMLESS

a) It is understood and agreed that this AGREEMENT is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this AGREEMENT. Each party hereto agrees to be responsible and assumes liability for its own negligent acts or omissions, or those of its officers, agents or employees to the fullest extent required by law, and agrees to save, indemnify, defend, and hold the other party harmless from any such liability. In the case of negligence of both the ENERGY OFFICE and the COUNTY, and damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.

b) This indemnification clause shall also apply to any and all causes of action arising out of performance of work activities under this AGREEMENT. Each contract for services or activities utilizing funds provided in whole or in part by this AGREEMENT shall include a provision that the ENERGY OFFICE and the State of Washington are not liable for damage or claims for damages arising from any subcontractor's performance or activities under the terms of the contracts.

12. GOVERNING LAW AND VENUE

The AGREEMENT shall be construed and enforced in accordance with, and the validity and performance thereof shall be governed by, the laws of the State of Washington. Venue of any suit between the parties arising out of this AGREEMENT shall be the Superior Court of Thurston County, Washington.

13. 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 effect other terms, conditions or applications 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.

14. RECAPTURE PROVISION

a) In the event that the COUNTY fails to expend state funds in accordance with state law and/or the provisions of this AGREEMENT, the ENERGY OFFICE reserves the right to recapture state funds in an amount equivalent to the extent of noncompliance.

b) Such right of recapture shall exist for a period not to exceed three (3) years following termination of the AGREEMENT. Repayment by the COUNTY of state funds under this recapture provision shall occur within thirty (30) days of demand. In the event that the ENERGY OFFICE is required to institute legal proceedings to enforce the recapture provision, the ENERGY OFFICE shall be entitled to its cost thereof, including reasonable attorney's fees.

15. REDUCTION IN FUNDS

The ENERGY OFFICE may unilaterally terminate all or part of this agreement, or may reduce its scope of work or budget under this AGREEMENT, if there is a reduction of funds by the source of those funds, and if such funds are the basis for this AGREEMENT.

16. ADMINISTRATION

a) The ENERGY OFFICE key personnel shall be Kristine Burton.

b) The COUNTY'S key personnel shall be John Bodoia.

17. FINAL PAYMENT

In accordance with Section 301 (3) of ESHB 2470 (the 1991-93 biennial operating budget of the State of Washington) as amended in the 1992 Regular Legislative Session these funds will be treated as a grant not a contract. Final invoice payment will be made upon completion of all tasks as specified in the Statement of Work.

IN WITNESS WHEREOF, the ENERGY OFFICE and the COUNTY have executed this AGREEMENT as of the date and year written below.

Washington State Energy Office

King County

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant Attorney General

\_\_\_\_\_  
Deputy Prosecuting Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

- 1.3. Set requirements for major public and private sector employers to implement commute trip reduction programs.
- 1.4. Develop a commute trip reduction plan. Submit one final copy of plan to WSEO.
- 1.5. Review parking policies and ordinances as they relate to employers and major work sites and make revisions necessary to comply with commute trip reduction goals and guidelines.
- 1.6. Establish an appeals process by which major employers who as a result of special characteristics of their business or its location would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements for complying with commute trip reduction guidelines.
- 1.7. Set means for determining base year values of the proportion of single occupant vehicle commute trips and the commute trip vehicle miles traveled per employee and the progress toward meeting commute trip reduction plan goals on an annual basis. For counties conducting surveys to establish base year values and goals, submit data base of survey results.
- 1.8. Ensure the commute trip reduction plan is consistent with the guidelines and requirements of SSHB 1671.
- 1.9. Ensure the commute trip reduction plan is consistent with applicable state or regional transportation plans and local comprehensive plans.
- 1.10. Ensure the commute trip reduction plan is consistent with the commute trip reduction plans of counties, cities or towns with common borders or related regional issues.
2. Enter into agreements through the inter local cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, or regional transportation planning organizations to coordinate the development and implementation of commute trip reduction plans.
  - 2.1. Provide funds to jurisdictions within the county implementing trip reduction programs required by SSHB 1671.
  - 2.2. Provide ENERGY OFFICE a list of amounts to be disbursed by county within sixty (60) days of date of last signature.
3. Serve as liaison between WSEO and cities, towns, transit agencies, and regional transportation planning organizations.
4. Provide county-wide commute trip reduction data and information to WSEO consistent with the requirements of using database software or ASCii provided by WSEO.
  - 4.1. For the county, provide a county-wide report which includes:
    - a. County contact person's name, mailing address and phone number
    - b. Number and names of jurisdictions subject to requirements of TDM program
    - c. Jurisdictions contact person's name, mailing address and phone number
    - d. Total number of commute trip reduction zones (CTR zones)
    - e. Preliminary Single Occupancy Vehicle and Vehicle Miles Traveled values for each CTR zone
    - f. List of CTR zone
    - g. Map showing CTR zone boundaries of the county

5. Submit to WSEO Quarterly Reports summarizing CTR events within the county and a list of scheduled CTR events in the next quarter.

**WSEO TASKS:**

1. Establish Phase I data base format and database computer software and provide to counties.
2. Provide instructions and training for software use.
3. Provide Department of Employment Security survey data to counties.
4. Through the Technical Assistance Team, provide support in developing and implementing commute trip reduction plans, including providing training and informational materials and assistance in plan and program evaluation.
5. Serve as liaison between Association of Washington Cities, Washington State Association of Counties and local general purpose governments.

Funding Source: State Funds - PI#22942 - Transportation Demand Management

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Funding Source: State Funds - PI#22942 - Transportation Demand Management

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## COMMUTE TRIP REDUCTION ACT INTERLOCAL AGREEMENT

8729

An interlocal agreement between King County (the "County"), the Municipality of Metropolitan Seattle ("Metro"), and the City of \_\_\_\_\_ ("City") (hereinafter jointly referred to as the "Parties") for the purpose of carrying out certain provisions of the Commute Trip Reduction Act of 1991.

WHEREAS, the Legislature enacted the Commute Trip Reduction Act (Chapter 202, Laws of 1991, codified as RCW 70.94.521-551) 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;

WHEREAS, King County and the cities within King County having within their boundaries one or more "major employer" are required to develop and implement commute trip reduction plans;

WHEREAS, the local jurisdiction commute trip reduction plans are required to be coordinated and consistent with plans of adjacent jurisdictions and applicable regional plans;

WHEREAS, the Legislature appropriated funds to provide technical assistance grants to local jurisdictions required to develop and implement commute trip reduction plans; and pursuant to RCW 70.94.544, the Washington State Energy Office shall distribute these funds to counties, which shall in turn distribute funds to those cities within the county in proportion to the number of major employers and major worksites within each city; 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, it is hereby agreed:

## SECTION 1.0 PURPOSES

The purposes of this Agreement are: (1) to allocate to the City its proportionate share of the state technical assistance grants for developing and implementing a commute trip reduction plan; (2) to allocate a portion of the technical assistance grants available to King County jurisdictions to Metro in order to help finance certain start-up functions to be undertaken by Metro on behalf of the County and the cities required to develop commute trip reduction plans; and (3) to establish a cooperative approach among the City, the County, and other jurisdictions in King County that are required to plan and administer programs under the Commute Trip Reduction Act (the Act) in order to address interjurisdictional issues and to meet the statutory requirements for coordination and consistency among the jurisdictions' respective commute trip reduction plans.

ATTACHMENT B

## 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 in Section 3.3 of the Agreement.

"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 a major 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.

"CTR Grant Funds" means state funds authorized by RCW 70.94.544 and Section 301 of the Natural Resources biennial budget to assist counties and cities implementing commute trip reduction plans.

"Major Employer" means a private or public employer that 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 for at least twelve continuous months during the year, as stipulated in RCW 70.94.521.

"State" is the Washington State Energy Office (WSEO) unless otherwise noted.

## SECTION 3.0 SCOPE OF WORK

- 3.1 **Scope of Work:** The scopes of work to be completed by the City, Metro and the County in accordance with this Agreement are described in Exhibit A: Statement of Work, which by reference is made a part of this Agreement. Funds provided to the City, Metro and the County under this Agreement shall be used solely for activities undertaken to fulfill the provisions of the Commute Trip Reduction Act, as reflected in Exhibit A.
- 3.2 **Separate Agreements for CTR Services:** The City and the County may enter into separate agreements with Metro for CTR implementation services, under which Metro would agree, to the extent allowed by law, to perform the following CTR tasks under contract to each interested jurisdiction: 1) assist employers in developing CTR Programs; 2) review and approve CTR Programs submitted by employers; and 3) establish and maintain records and produce required reports.

Metro offers to provide all contracted services for an amount from each contracting jurisdiction's CTR Grant Funds allotment. Each contracting jurisdiction would retain at least 10% of its CTR Grant Funds allotment for implementing its CTR ordinance.

**3.3 Evaluation and Monitoring:** The City, the County and Metro shall cooperate with and freely participate in any monitoring or evaluation activities conducted by the State that are pertinent to and consistent with the intent of the Commute Trip Reduction Act. The State shall be solely responsible for determining satisfactory performance of the Scope of Work by the City. The County's role in monitoring and/or evaluating the City is limited to its functions as the State's fiscal agent in disbursing the CTR Grant Funds, pursuant to Section 4 of this Agreement, and as the State's liaison with the City.

**3.4 Administrative Representatives:** The County, Metro 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 known to each other in writing.

King County's administrative representative shall be \_\_\_\_\_.

Metro's administrative representative shall be \_\_\_\_\_.

The City's administrative representative shall be \_\_\_\_\_.

**3.5 King County CTR Coordinating Committee:** King County shall establish and provide administrative support to a CTR Coordinating Committee -- a staff-level committee with representatives from Metro, the Puget Sound Regional Council, and each City in King County required to develop a CTR Plan. Each agency will name its representative to the committee in its own manner. The purposes of the committee shall be to (1) provide a forum for efforts to coordinate the development of the CTR plans, (2) address issues and share information related to implementation of the CTR plans, and (3) address other transportation demand management matters, as agreed by the committee.

#### **SECTION 4.0 DISBURSEMENT OF CTR GRANT FUNDS.**

**4.1 Amounts.** The total amount of CTR Grant Funds to be allotted to the City for the agreement period shall be \$\_\_\_\_\_, based on the method described in Exhibit B: Methodology for Allocating CTR Grant Funds, which by reference is made a part of this Agreement.

The total amount of CTR Grant Funds to be allotted directly to Metro under this agreement shall not exceed one hundred and thirty-four thousand dollars (\$134,000), as payment for the CTR countywide start-up tasks Metro agrees to perform on behalf of all affected jurisdictions in King County. Metro agrees to contribute fifty thousand dollars (\$50,000) in in-kind services to perform these start-up tasks, which are described in Exhibit A. Metro agrees to use its best efforts to complete the three start-up tasks by December 31, 1992.

- 4.2 **Disbursement of Funds.** The County shall invoice the State at the beginning of each quarter for the countywide quarterly disbursement of CTR grant funds. The City shall submit an invoice voucher and a quarterly progress report to the County by no later than the tenth day of each quarter. Within twenty (20) days of receiving an invoice voucher from the City, the County shall remit to the City a warrant for an amount equal to one eighth (to the nearest dollar) of the total allotment to the City under this agreement, PROVIDED THAT the State has made a timely disbursement of CTR grant funds to the County. In the event the State does not make a timely disbursement of funds, the County will notify the other Parties of the delay.

The first disbursement provided under this Agreement shall be for an amount equal to the City's proportional share of the first countywide disbursement provided to the County by the State.

Metro shall submit an invoice voucher and a quarterly progress report to the County by the following dates for the amounts indicated:

<u>Invoice Date</u>	<u>Amount</u>
July 31, 1992	\$83,750
October 9, 1992	\$33,500
January 8, 1993	\$16,750

The quarterly progress reports shall describe Metro's progress in completing the countywide start-up tasks set forth in Exhibit C and shall report on any agreements Metro has reached with interested jurisdictions for the provision of the CTR implementation activities described in Exhibit C.

#### SECTION 5.0 REPORTING.

- 5.1 **Quarterly Reports.** When requesting payment each quarter, the City (or its designee) shall submit a brief progress report to the County indicating the CTR plan development and implementation activities undertaken during the past quarter and those scheduled for the current quarter, with the exception of the first progress report submitted under this Agreement, which shall describe the CTR activities undertaken by the City since July 1, 1991. The County shall forward the City's quarterly progress reports to the State and to other participating cities.
- 5.2 **Special Reports.** By no later than April 15, 1993, the City (or its designee) shall submit the following special reports to the County:
- 5.2.1 **CTR Plan Summary:** This report shall include a copy of the city's ordinance adopting the CTR Plan, as well as a description of the city's CTR Program for its employees.

**5.2.2 CTR Zone Report:** This report shall include, at a minimum, the following: (a) a map showing CTR zone boundaries within the city; and (b) a list of CTR zones, indicating an identifying title, and the preliminary base year values of the proportion of single occupancy vehicles and vehicle miles traveled for each zone.

**5.2.3 Parking Policy Report:** This report shall include a summary of the city's existing parking policies and ordinances, as well as a status report on the city's parking policy review (as required by the CTR Act).

**5.3 Auditing of Records, Documents, and Reports.** The State Auditor and any of their representatives shall have full access to and the right to examine during normal business hours and as often as the State Auditor may deem necessary, all the records of the City, the County and Metro with respect to all matters covered in this Agreement. Each Party to the Agreement shall have similar access and rights with respect to the records of the other Parties. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all contracts, invoices, materials, payrolls, and records of matters covered by this Agreement. Such rights last for three (3) years from the date final payment is made hereunder.

#### **SECTION 6.0 RECAPTURE AND NONCOMPLIANCE PROVISIONS.**

**6.1** In the event that Metro fails to expend the CTR Grant Funds in accordance with state law and/or the provisions of this Agreement, the County reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for a period not to exceed three (3) years following termination of this agreement. Repayment by Metro of funds under this recapture provision shall occur within thirty (30) days of demand. In the event that the County is required to institute legal proceedings to enforce the recapture provision, the County shall be entitled to its cost thereof, including reasonable attorney's fees.

**6.2** In the event the State determines that the City has failed to expend the CTR Grant Funds in accordance with state law and requests the County's assistance in resolving the matter, the County reserves the right to withhold further disbursements to the City until the State notifies the County that disbursements may be resumed.

**SECTION 7.0 REDUCTION IN FUNDS.** If there is a reduction of CTR Grant Funds by the State, and if such funds are the basis of this Agreement, the County, Metro and the City may agree to reduce their respective scopes of work or budgets under this Agreement and/or the Parties may terminate the Agreement, as provided in Section 14.

**SECTION 8.0 NONDISCRIMINATION.** There shall be no discrimination against any employee who is paid with CTR grant funds or against any applicant for such

employment because of race, religion, color, sex, marital status, creed, national origin, age, Vietnam era/disabled veterans status, or the presence of any sensory, mental, or physical handicap. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training.

**SECTION 9.0 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 the 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 the agreement unless stated to be such in writing, signed by an authorized representative of the County, and attached to the original agreement.

**SECTION 10.0 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 11.0 INDEMNIFICATION AND HOLD HARMLESS.**

- 11.1 It is understood and agreed that this agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this agreement. Each party hereto agrees to be responsible and assumes liability for its own negligent acts or omissions, and those of its officers, agents or employees, while performing work pursuant to this Agreement, to the fullest extent required by law, and agrees to save, indemnify, defend, and hold the other parties harmless from any such liability. In the case of negligence of multiple parties, any damages allowed shall be assessed in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other parties in proportion to the percentage of negligence attributable to the other parties.
- 11.2 This indemnification clause shall also apply to any and all causes of action arising out of performance of work activities under this agreement. Each contract for services or activities utilizing funds provided in whole or in part by this agreement shall include a provision that the State is not liable for damage or claims from damages arising from any subcontractor's performance or activities under the terms of the contracts.
- 11.3 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 12.0 AGREEMENT PERIOD.** This Agreement shall become effective upon signature by the Parties to this Agreement. The termination date shall be June 30, 1993, unless extended by mutual agreement of the Parties. Termination of this agreement does not relieve any of the Parties of any obligations incurred as a result of this Agreement.

**SECTION 13.0 AGREEMENT MODIFICATIONS.** This agreement may be amended, altered, clarified or extended only by written agreement of the County Executive and authorized representatives of the City and Metro.

**SECTION 14.0 TERMINATION.**

- 14.1 Any party to this agreement may terminate the agreement, in whole or in part, upon thirty (30) days advance written notice of the termination to the other parties.
- 14.2 If at any time during the agreement period the State acts to terminate, reduce, modify, or withhold the CTR Grant Funds allotted to the County, then any party may terminate this agreement upon giving thirty (30) days written notice to the other parties. The County, as the State's fiscal agent, shall have the authority and responsibility to ensure that upon termination of this agreement, any remaining CTR Grant Funds are made available to the parties in the manner described in Section 4.0 of this agreement or returned to the State.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1992.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day first above mentioned.

Approved as to form:

CITY OF \_\_\_\_\_

By \_\_\_\_\_  
Assistant City Attorney

By \_\_\_\_\_  
Title \_\_\_\_\_

Approved as to form:

KING COUNTY:

By \_\_\_\_\_  
Deputy Prosecuting Attorney

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

Approved as to form:

METRO:

By \_\_\_\_\_  
Attorney for Metro

By \_\_\_\_\_  
Executive Director

EXHIBIT A: Statement of Work

EXHIBIT B: Methodology for Allocating CTR Grant Funds



**STATEMENT OF WORK:**  
Development and Implementation of  
Commute Trip Reduction Plans and Programs

**BACKGROUND:** The 1991 Session of the Washington State Legislature found that automobile traffic in Washington's metropolitan areas is the major source of emissions of air contaminants and that increasing automobile traffic is aggravating traffic congestion. Further, the Legislature found that increasing automobile traffic is a major factor in increasing consumption of gasoline. Reducing the number of commute trips to work via single occupant vehicles is an effective way of reducing vehicle-related air pollution, traffic congestion and energy use.

To address these problems, the Commute Trip Reduction (CTR) Act was enacted by the 1991 Legislature and signed by the Governor. This Act requires cities and counties containing "major employers" in the eight counties (Clark, King, Kitsap, Pierce, Snohomish, Spokane, Thurston, and Yakima) experiencing the greatest vehicle-related air pollution, gasoline consumption and congestion problems to develop plans and programs to reduce single occupant vehicle commute trips.

These counties and cities are to establish and implement commute trip reduction plans for all major employers within their jurisdiction. The commute trip reduction plans are to be developed in cooperation with local transit agencies, regional transportation planning organizations and major employers. They are to be consistent with and can be incorporated in state or regional transportation plans and local comprehensive plans. Additionally, the trip reduction plans are to be consistent with the guidelines established by the State's Commute Trip Reduction Task Force.

The Commute Trip Reduction program will be developed in phases. Phase I (July 1, 1991 to June 30, 1993), the period of this agreement, covers the initial period of local plan implementation. During Phase I, cities and counties will pass ordinances, program staff will identify and make contacts with major employers, and staff will establish commute trip reduction zones and generate zone base year values and progress year goals. A separate Phase II contract will be negotiated after the third quarter of State Fiscal Year 1993 when the available funds are confirmed by the Legislature. Phase II (July 1, 1993 to June 30, 1995) will involve ongoing program administration, including, but not limited to: employer initial program descriptions (1993), employer annual reports (1994, 1995), and employee survey results, where and when available.

**COUNTY ONLY TASKS:**

King County, acting as a fiscal agent for the State, will coordinate and administer within King County THE distribution of State CTR grant funds available to local governments within the County. Pursuant to this interlocal agreement, King County will provide funds to cities within the county which are developing and implementing commute trip reduction plans. Funds provided under this agreement are to be used solely for activities undertaken to fulfill the requirements of the CTR Act, codified as RCW 70.94.521, et seq. King County will be a liaison between the Washington State Energy Office (WSEO) and cities within the county for the purpose of implementing the Act.

**COUNTY AND CITY TASKS:**

1. Adopt by ordinance and implement a commute trip reduction plan for major employers within the jurisdictions' respective boundaries, according to the provisions of the CTR Act.
  - 1.1 Set goals for reductions in the proportion of single occupant vehicle commute trips and commute trip vehicle miles traveled per employee.
  - 1.2 Designate commute trip reduction zones.
  - 1.3 Set requirements for major public and private sector employers to implement commute trip reduction programs.
  - 1.4 Develop a commute trip reduction plan. Submit one final copy of plan to WSEO.
  - 1.5 Review local parking policies and ordinances as they relate to employers and major work sites and consider any revisions necessary to comply with commute trip reduction goals and guidelines.
  - 1.6 Establish an appeals process by which major employers, who as a result of special characteristics of their business or its location would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements complying with commute trip reduction guidelines.
  - 1.7 Set means for determining base year values of the proportion of single occupant vehicle commute trips and the commute trip vehicle miles traveled per employee and the progress toward meeting commute trip reduction plan goals on an annual basis. For counties conducting surveys to establish base year values and goals, submit data base of survey results.

Product: As a party to this agreement, each jurisdiction will receive a preliminary countywide list of affected worksites, sorted by jurisdiction.

3. Adjust the database structure (i.e. software) provided by WSEO, as needed, to generate information and forms for employer notification.

Product: As a party to this agreement, each jurisdiction will receive a disk copy of a database suitable for employer notification.

4. Develop a plan to collect and summarize jurisdictions' and employers' activities and progress in support of State and local program review and reporting requirements.

Product: As a party to this agreement, each jurisdiction will receive a program review and evaluation plan and reporting forms.

## METHODOLOGY FOR ALLOCATING CTR GRANT FUNDS

The Commute Trip Reduction (CTR) Act states that the Washington State Energy Office (WSEO) shall distribute the CTR Grant Funds to the eight counties covered by the Act "in proportion to the number of major employers and major worksites in each county;" and the statute requires the counties to distribute the funds to cities "in proportion to the number of major employers and major worksites within the city."

A "major employer," as defined by the Act, is a public or private employer that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year. "Major worksite," as defined by the Act means a building or a group of buildings that are on physically contiguous parcels of land or on parcels separate solely by private or public roadways or rights-of-way, and at which there are one hundred or more full-time employees of one or more employers, who begin their work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months.

A complicating factor in agreeing upon a methodology for distributing the CTR Grant Funds within King County has been the lack of reliable data on the geographic distribution of "major employers and major worksites." The best data available at the time of this Agreement is the Washington State Employment Security Department's estimated count of employers with employment sites of over 100 full-time employees, by jurisdiction, showing a total of 1,278 such employment sites in King County. The WSEO used this database in distributing the CTR Grant Funds among the eight counties.

The methodology for allocating the CTR Grant Funds in King County is a proportional distribution, based on Employment Security's estimate of the distribution of potential major employers within King County, with the following adjustments:

- o An "off-the-top" allocation of \$134,000 for three countywide start-up functions to be provided by Metro on behalf of all jurisdictions, as reflected in Exhibit A, Statement of Work;
- o No allocations to small cities on the Employment Security list where it has been determined that no employers meet the statutory definition of "major employer." Carnation, Snoqualmie and North Bend are in this category; and
- o The addition of the City of Sea-Tac, assuming that five of the major employers that would otherwise be assigned to the unincorporated area are located in Sea-Tac, based on information from the SeaTac Planning Department.

The resulting distribution of CTR Grants Funds is summarized in the following table:

**DISTRIBUTION OF CTR GRANT FUNDS WITHIN KING COUNTY**

JURISDICTION	MAJOR EMPLOYERS	% SHARE	FY 1992/93 <sup>1</sup> CTR GRANT FUNDS
ALGONA	2	0.2%	4,080
AUBURN	30	2.3%	61,197
BELLEVUE	119	9.3%	242,749
BOTHELL	16	1.3%	32,638
DES MOINES	5	0.4%	10,200
ENUMCLAW	5	0.4%	10,200
FEDERAL WAY	38	3.0%	77,516
ISSAQUAH	12	0.9%	24,479
KENT	64	5.0%	130,554
KIRKLAND	31	2.4%	63,237
MERCER ISLAND	7	0.5%	14,279
REDMOND	54	4.2%	110,155
RENTON	48	3.8%	97,915
SEATAC	5	0.4%	10,200
SEATTLE	745	58.3%	1,519,730
TUKWILA	30	2.3%	61,197
UNINCORPORATED	67	5.3%	136,674
METRO	N/A	0.0%	134,000
	1,278	100.0%	2,741,000

<sup>1</sup>This allocation reflects a proportionate share of major employers' worksites, as indicated by Employment Security Department data, with the exception of the \$134,000 off-the-top allocation to Metro for countywide start-up activities.