

ORDINANCE 3699

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF CLYDE HILL, THE TOWN OF YARROW POINT, THE CITY OF MEDINA, THE TOWN OF HUNTS POINT, AND THE CITY OF KIRKLAND FOR THE PROVIDING OF MUNICIPAL COURT SERVICES.

WHEREAS, the Points Cities desire to secure municipal court services from the City of Kirkland; and

WHEREAS, the Points Cities and the City of Kirkland are authorized to enter into this Agreement pursuant to RCW Chapter 39.34, the Interlocal Cooperation Act;


NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City, the Interlocal Agreement attached as Exhibit A, which by this reference is incorporated into this Ordinance, as though fully set forth herein.

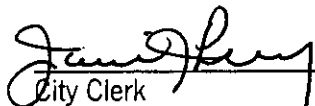
Section 2. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 20th day of July, 1999.


Signed in authentication thereof this 20th day of July, 1999.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF CLYDE HILL,
THE TOWN OF YARROW POINT, THE CITY OF MEDINA, THE TOWN OF HUNTS
POINT, AND THE CITY OF KIRKLAND FOR THE PROVIDING OF
ALL FACILITIES AND PERSONNEL FOR THE MUNICIPAL COURTS OF
CLYDE HILL, YARROW POINT, MEDINA, AND HUNTS POINT**

WITNESSETH:

WHEREAS, the City of Clyde Hill ("Clyde Hill"), the City of Medina ("Medina"), the Town of Yarrow Point ("Yarrow Point"), and the Town of Hunts Point ("Hunts Point") are each municipal corporations organized under the laws of the State of Washington (hereinafter referred to as "Contracting Cities"); and

WHEREAS, the City of Kirkland ("Kirkland") is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, each of the parties to this Agreement is authorized under Washington law to operate a municipal court (Chapter 3.50 RCW); and

WHEREAS, Chapter 39.34 RCW ("The Interlocal Cooperation Act") permits municipal corporations to contract with one another to perform any act that each is independently authorized to perform; and

WHEREAS, RCW 39.34.180 and 3.50.805 authorize municipal corporations to enter into interlocal agreements for municipal court services; and

WHEREAS, Kirkland currently operates a municipal court; and

WHEREAS, Kirkland is willing to provide these municipal court services to the Contracting Cities, provided that the Contracting Cities pay a proportionate share of the operating costs of said municipal court; and

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, and in the exercise of authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW, the Contracting Cities and Kirkland do hereby agree as follows:

1. Purpose. The purpose of this Agreement is to provide municipal court services to the Contracting Cities by using Kirkland facilities, materials and personnel.

2. Administration. The Kirkland Court Administrator shall be responsible for the administration of this Agreement. No joint acquisition of real or personal property is contemplated hereunder. The Contracting Cities agree that court operations under this Agreement will be as provided for by Kirkland Municipal Code Chapter 3.49.

3. Duties of Kirkland. Kirkland shall perform the following duties:

A. Provide all municipal court services for each Contracting City. For the purpose of this Agreement, "municipal court services" shall include all local court services imposed by state statute, court rule, City ordinance, or other regulation now existing or as later amended, including: caseload management, processing and adjudication of cases, and collection of overdue money. Other examples of court services include issuance of search and arrest warrants, motion hearings, evidentiary hearings, notice of settings to parties, bench and jury trials, pre-sentence investigations, sentencing, post-trial motions, and the duties of the courts of limited jurisdiction regarding appeals. Municipal court services shall also include witness fees, jury fees, interpreter services and court security. Kirkland intends to provide probation services and domestic violence advocate services, but, in the event that existing arrangements for these services do not cover cases filed by the Contracting Cities, then the Contracting Cities shall participate in making arrangements for these services. Kirkland shall provide all necessary personnel, equipment, and facilities to perform the foregoing described municipal court services in a timely manner as required by law and court rule. Kirkland shall have discretion in caseload management, including the scheduling of judges and as to which cases will be heard by a commissioner or magistrate.

B. Provide facilities, materials, and support staff for the municipal judge(s) and pro tem judges appointed by each of the Contracting Cities in accordance with Section 6 below.

C. Compensate the municipal judge(s) and pro tem judges, as per the terms of this Agreement.

D. Accept all misdemeanor criminal and infraction filings from each of the Contracting Cities and timely process and adjudicate the same.

E. Accept and track court-mandated payments in criminal and infraction cases and bail or other forfeitures for each of the Contracting Cities and deliver these payments to the correct Contracting City on a monthly basis. The use of a collection agency by Kirkland to collect court-mandated payments is specifically permitted.

F. Timely pay all revenues due and owing to the State in connection with the Contracting Cities' cases.

G. Provide each Contracting City with performance data at least quarterly. This performance data shall be broken down by municipality and shall include the following:

(1) Caseload report which includes the following information:

- a. Filings by case type;
- b. Dismissals;
- c. Number and type of hearings;
- d. Trial settings and type of trial set;

- e. Number of cases (by broad case type) disposed during report period and how such cases were disposed;
- f. Number of deferred prosecutions/diversions;
- g. Appeals to superior court; and
- h. Total revenue.

(2) Remittance report which includes a breakdown by case categories of revenue received.

(3) Number of cases by broad case type on probation at each probation level and the percentage completing probation.

H. In the event that Kirkland's duties under this Agreement are enlarged or increased due to state mandates or new requirements from a Contracting City, Kirkland may increase the filing fees or add a supplemental monthly fee for said Contracting City to cover the costs to said Contracting City for the change. Kirkland will notify each Contracting City of the effective date of the fee changes, which may be immediately. Either party may request mediation as to the amount of this fee change. The Contracting City shall timely pay the new fees from their effective date even if mediation is requested.

I. A Contracting City may direct Kirkland to hold court at an alternate location of that Contracting City's choosing in the event of jurisdictional concerns. Said Contracting City will work with Kirkland to facilitate court logistics. As many administrative duties as possible will continue to be performed at the Kirkland Municipal Court. Kirkland shall increase the filing fees or add a supplemental monthly fee for said Contracting City to cover the costs of the satellite court. Kirkland will notify said Contracting City of the effective date of the fee changes, which may be immediately. Either party may request mediation as to the amount of this fee change. The Contracting City shall timely pay the new fees from their effective date even if mediation is requested. In addition, if a Contracting City has required Kirkland to operate a satellite court, either said Contracting City or Kirkland shall have the option to terminate this Agreement on six months' notice.

4. Duties of the Contracting Cities. The Contracting Cities shall each perform the following duties:

A. Each Contracting City shall be responsible for providing prosecution services for all misdemeanors and infractions that are filed on its behalf. Each Contracting City shall provide discovery and subpoena witnesses for its cases.

B. Each Contracting City shall provide public defense services as needed for its cases and cover all public defense costs for indigent defendants who are charged with misdemeanors in its respective jurisdiction.

C. The Mayor or City Manager of each Contracting City will appoint a municipal judge and pro tem judges as provided in Section 6.

D. Issuance of Citations. Citations issued by each Contracting City shall contain the applicable arraignment date in accordance with the Kirkland arraignment calendar.

E. Filing of Tickets. Citations and Infractions issued by each Contracting City shall be filed with the Kirkland Court Clerk within 48 hours after the violation or ticket issuance. Citations for in-custody defendants shall be filed with the Kirkland Court Clerk no later than 10:00 a.m. on the court day following the arrest.

F. Warrants. Whenever a Contracting City executes a warrant, said City shall contact the Kirkland Municipal Court and make a return on the warrant as soon as possible.

G. Jail Costs. Each Contracting City is responsible for incarceration arrangements for its defendants and the cost for such incarceration.

H. Appeals. In the event that a Contracting City appeals a case, said City will be charged the fee to file a notice of appeal and the cost for copying the tapes.

I. Each Contracting City shall timely make payments to Kirkland, in accordance with Section 5, for its municipal court services.

5. Cost of Contract and Payments.

A. Each Contracting City shall pay Kirkland for providing municipal court services on a per case basis. For each criminal citation filed by a Contracting City, Kirkland shall be paid \$141.50 by the applicable Contracting City. For each traffic, parking, or non-traffic infraction filed by a Contracting City, Kirkland shall be paid \$26.50 by the applicable Contracting City. These fees shall be paid regardless of whether the cases are later dismissed without a full adjudication.

B. Each Contracting City agrees to pay Kirkland for Probation Services and Domestic Violence Advocate Services as provided in this Subsection, in that these services are not included in the filing fees set forth above.

(1) Probation Services: Kirkland shall direct-bill each Contracting City for probation services. The amount billed to each Contracting City will be based on their actual probation caseload. For example, in 1999, these services would have been billed at \$36 per hour of time spent on that Contracting City's cases as reported by King County probation.

(2) Domestic Violence Advocate Services: Kirkland shall direct-bill each Contracting City for domestic violence advocate services. The amount billed to each Contracting City will be based on the time spent providing domestic violence advocate services for their cases and citizens. For example, in 1999, these services would have been billed at an average of

\$30 per hour of King County domestic violence advocate services for that Contracting City.

C. Kirkland will be expanding its Court facilities to provide the services identified in Section 3. Each Contracting City agrees to pay to Kirkland a one-time fee which will be the total capital expansion project cost (not to exceed \$30,000), divided equally among the Contracting Cities. This one-time fee will be due within 30 days after invoice by Kirkland.

D. On a monthly basis, Kirkland shall bill each Contracting City for amounts due under this Agreement. Each Contracting City shall pay the amount due within 45 days of receipt. However, if a Contracting City has a good faith dispute with the amount of the invoice, the Contracting City shall pay the non-disputed amount within the time frame set forth in this Section.

6. Municipal Courts of Contracting Cities

A. Establishment. Each Contracting City is creating a municipal court. These courts are being established for statutory purposes only. Each Contracting City hereby designates the Kirkland Municipal Court to operate as the municipal court of their respective City. A case filed in Kirkland Municipal Court will continue to be identified as a case of the particular Contracting City that filed the case. Any Contracting City may revoke the provisions of this Subsection. The Contracting City will notify Kirkland of the effective date of such revocation, which may be immediately.

B. Appointment of Judges. In light of Subsection 6.A., this Agreement does not require a Contracting City to appoint judges of their municipal court. Still, at any time, a Contracting City may appoint a Kirkland municipal judge as their municipal court judge and may appoint Kirkland judges pro tem as judges pro tem of their municipal court.

C. Provisions Applicable when a City has revoked Subsection 6.A. The following provisions are only applicable to a City that has revoked their designation that the Kirkland Municipal Court operates as the municipal court of their respective City.

- (1) Municipal Judge. The Mayor or City Manager of each Contracting City shall appoint a municipal judge(s) to preside over its respective municipal court. The Contracting Cities agree to appoint the current Kirkland municipal judge(s) to fill these positions. The appointed municipal judge(s) shall be qualified in accordance with state law, including holding a law degree and being admitted to practice law under the laws of the State of Washington. If a Contracting Cities ever appoints as municipal judge a person who does not serve as Kirkland municipal judge, then Kirkland shall have the option to increase the filing fees or add a supplemental monthly fee for said Contracting City to cover the costs associated with having a separate judge. Kirkland will notify said Contracting City of the effective date of the fee changes, which may be immediately. Either party may request mediation

as to the amount of this fee change. The Contracting City shall timely pay the new fees from their effective date even if mediation is requested. In addition, if a Contracting City appoints as municipal judge a person who does not serve as Kirkland municipal judge, Kirkland shall have the option to terminate this Agreement on six months' notice.

- (2) **Judges Pro Tem.** The Mayor or City Manager of each Contracting City shall appoint judges pro tem to hear cases in the absence, disability, or disqualification of the municipal judge. The Contracting Cities agree to appoint as judges pro tem the same persons who serve as Kirkland's judges pro tem. Kirkland agrees that it shall consult with each of the Contracting Cities regarding its choice of judges pro tem prior to appointing the same.
- (3) **Salary.** Each Contracting City shall provide that their judge and judges pro tem will be compensated as established by Kirkland, unless said Contracting City makes an arrangement separate from this Agreement, in which event any such compensation will be separate from and in addition to costs covered by this Agreement.
- (4) **Notice of Appointment.** Upon appointment of the judge(s) or judges pro tem in accordance with this Subsection, the Mayor or City Manager of each Contracting City shall notify Kirkland of the name of the appointed judge(s) and judges pro tem and the salary established by ordinance.

7. Duration and Termination.

A. **Initial Term.** The initial term of this Agreement shall be for a period of ten (10) years. The Agreement shall take effect on January 1, 2000, or as soon thereafter as all of the following events have occurred:

- (1) Approval of the Agreement by the official action of the governing bodies of each of the parties hereto.
- (2) Execution of the Agreement by the duly authorized representative of each of the parties hereto.
- (3) Filing a copy of this Agreement with King County Department of Records and Elections.

B. **Adjustment of Filing Fees.** Commencing by August 2000 and annually thereafter during the term of this Agreement (and any extensions thereof), the parties agree to review the scope of services provided by Kirkland and the cost to each Contracting City for the same. Fees charged to Contracting Cities may change as provided in this Agreement without amendment of this

Agreement. Any change in filing fees which is to go into effect the next January 1 will be called an "Annual Adjustment in Filing Fees". The parties agree that any proposed Annual Adjustment in Filing Fees will be under discussion between the parties no later than September 30 of the year prior to the effective date of the new filing fees. If Kirkland does not commence discussions with the Contracting Cities prior to September 30th, no increase for the next year shall be permitted. A Contracting City may request formal negotiation as to the amount of the Annual Adjustment in Filing Fees if they so notify Kirkland within 30 days after the specific amount of the proposed adjustment is known. If negotiation does not resolve the issue by November 15th, the parties to the formal negotiation agree to submit the Annual Adjustment in Filing Fees to mediation. The existing filing fees shall remain in effect until the parties reach agreement as to the amount of filing fees or until mediation or subsequent litigation terminates, whichever occurs first.

C. Extension. This Agreement shall automatically be renewed and extended for additional five (5) year periods upon the same terms and conditions set forth herein, or as amended, unless terminated in accordance with Subsection D below.

D. Termination.

- (1) By Contracting Cities. Each Contracting City shall have the right to terminate this Agreement with or without cause at any time during the term of this Agreement, including the initial term, by providing Kirkland with notice of intention to terminate at least eighteen (18) months prior to the termination date. The termination by one or more Contracting Cities shall have no effect on the remaining Contracting Cities.
- (2) Notwithstanding Subparagraph (1) above, at any time a Contracting City shall have the right, at its sole discretion, to terminate this Agreement with Kirkland based on any one of the following:
 - a. Material breach of this Agreement by Kirkland, after such opportunity to cure as is reasonable in the circumstances.
 - b. Specific termination provisions within this Agreement.
 - c. Circumstances beyond the control of a Contracting City which make performance of its duties under this Agreement unreasonable.

Termination under this Subparagraph shall be effective as of the date in the notice of termination. Unless this Agreement requires more advance notice, the Contracting City will give such advance notice of termination as is reasonable under the circumstances.

- (3) By Kirkland.
 - a. After January 1, 2002, Kirkland shall have the right to terminate this Agreement with or without cause, at any time, by providing one or

more Contracting Cities with notice of intention to terminate at least eighteen (18) months prior to the termination date. Termination as to one or more Contracting Cities shall have no effect on the remaining Contracting Cities.

b. Notwithstanding Subparagraph (a) above, at any time Kirkland shall have the right, at its sole discretion, to terminate this Agreement with a Contracting City based on any one of the following:

- (i) Material breach of this Agreement by that Contracting City, after such opportunity to cure as is reasonable in the circumstances.
- (ii) Specific termination provisions within this Agreement.
- (iii) Circumstances beyond the control of Kirkland which make performance of Kirkland's duties under this Agreement unreasonable.

Termination under this Subparagraph shall be effective as of the date in the notice of termination. Unless this Agreement requires more advance notice, Kirkland will give such advance notice of termination as is reasonable under the circumstances.

8. Mediation. In specified circumstances, this Agreement allows for Mediation. Such mediation shall occur as provided in this Section. The specified matter shall be referred to mediation with the Washington Arbitration and Mediation Service (WAMS), or another agreed-upon mediator. The involved parties shall share the cost of mediation equally, except that any party may refer the question of division of costs to the mediator.

9. Kirkland employees. No employee or agent of Kirkland shall be or shall be deemed to be the employee or agent of any Contracting City as a result of this Agreement. None of the benefits provided by the Contracting Cities to its employees or agents, including, but not limited to, compensation, insurance, and unemployment insurance are available from any Contracting City to the employees or agents of Kirkland.

10. Notice. Any notices required to be given under this Agreement shall be deemed sufficient if in writing and delivered personally or sent via certified mail to the following parties at the following addresses:

For Clyde Hill:

City Administrator
City of Clyde Hill
9605 N.E. 24th Street
Clyde Hill, WA 98004

For Yarrow Point:

Town Administrator
Town of Yarrow Point
4030 95th Avenue N.E.
Yarrow Point, WA 98004

For Medina:

City Manager
 City of Medina
 501 Evergreen Point Road
 Medina, WA 98039

For Hunts Point:

Town Administrator
 Town of Hunts Point
 3000 Hunts Point Road
 Hunts Point, WA 98004

For Kirkland:

City Manager
 City of Kirkland
 123 Fifth Avenue
 Kirkland, WA 98033

Any of the Parties may change its address under this section by serving written notice of the change on all parties hereto.

11. Indemnification. Each party shall defend, indemnify and hold the other party, its officials, officers, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorneys' and expert witness fees, arising out of or in connection with the performance of this Agreement, to the extent of each party's own negligence. Said indemnification shall also be applicable to intentional acts or omissions of each party's officers, officials, employees or volunteers. The parties agree that their obligations under this paragraph extend to claims made against one party by the other party's own employees or agents.

Each party shall defend, indemnify and hold the other party, its officials, officers, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorneys' and expert witness fees, arising out of the existence or effect of the ordinances, rules or regulations, policies or procedures of each respective party. If any cause, claim, suit, action or administrative proceedings is commenced challenging the enforceability or validity of the ordinance, rule, regulation, policy or procedure of a party hereto, that party alone shall defend the same at its sole expense, and shall fully satisfy a judgment entered on the same, including all chargeable costs and attorneys' fees.

FOR THE PURPOSE OF THIS INDEMNIFICATION ONLY, THE PARTIES, BY MUTUAL NEGOTIATION, HEREBY WAIVE, AS RESPECTS THE OTHER PARTY ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW.

This section shall survive the expiration or termination of this Agreement.

12. Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other party's expenses and reasonable attorneys' and expert witness fees. A party may not file a lawsuit as

plaintiff regarding the annual adjustment of filing fees without first participating in mediation.

13. Insurance. Each party to this Agreement shall maintain insurance at least equivalent to the minimum coverage provided through the WCIA or AWC insurance pools. Such insurance coverage shall be maintained during the entire term of this Agreement and all extensions thereto.

14. Entire Agreement. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement. No amendments to this Agreement shall be binding upon the parties unless such amendment is in writing and executed by the duly authorized representatives of all the parties. The written provisions and terms of this Agreement shall supersede all prior statements of any officer or other representative of the parties, and such prior statements shall not alter this Agreement.

15. Severability. In the event that any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid, the remaining provisions shall remain in full force and effect.

16. No Assignment. No party to this Agreement shall transfer or assign any right or obligation hereunder without the prior written consent of the other parties. Any act in derogation of the foregoing shall be null and void; provided, however, that any such assignment shall not relieve the party making such assignment of its obligations under this Agreement. This provision does not apply to collection services.

DATED this _____ day of _____, 1999.

CITY OF CLYDE HILL

MAYOR PHILIP G. ROURKE

ATTEST/AUTHENTICATED:

MITCHELL WASSERMAN,
CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
JENNIFER L. SIMPSON

CITY OF MEDINA

DOUG SCHULTZE, CITY MANAGER

ATTEST/AUTHENTICATED:

_____, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By: _____
KIRK WINES

TOWN OF YARROW POINT

MAYOR JEANNE BERRY

ATTEST/AUTHENTICATED:

SUE ANN SPENS, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE TOWN ATTORNEY

By: _____

TOWN OF HUNTS POINT

MAYOR ERSHELLE EADE

ATTEST/AUTHENTICATED:

LYNNE PERKINS, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE TOWN ATTORNEY

By: _____
CAROL A. MORRIS

CITY OF KIRKLAND

DAVID RAMSAY, CITY MANAGER

ATTEST/AUTHENTICATED:

JANICE PERRY, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

By: _____
GAIL GORUD
May99\ctkgg5

July 2, 1999/GG