

RESOLUTION R-4597

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND CITY OF MARYSVILLE FOR JAIL SERVICES.

WHEREAS, the City of Kirkland wishes to secure the use of additional jail bed capacity; and

WHEREAS, the City of Marysville is willing to accept City of Kirkland inmates for a rate of compensation mutually agreed upon by the parties; and

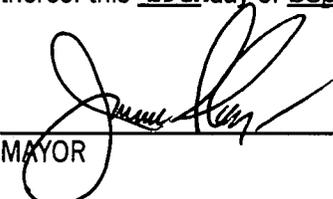
WHEREAS, Chapter 39.34 RCW authorizes the parties to enter into an interlocal cooperation agreement to perform any governmental service, activity or undertaking which each contracting party is authorized by law to perform;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City of Kirkland an interlocal agreement substantially similar to that attached as Exhibit "A", which is entitled "Interlocal Agreement for Jail Services."

Passed by majority vote of the Kirkland City Council in open meeting this 19th day of September, 2006.

Signed in authentication thereof this 19th day of September, 2006.


MAYOR

Attest:


City Clerk

AFTER RECORDING RETURN TO:

City of Marysville
4822 Grove Street
Marysville, WA 98270

**INTERLOCAL AGREEMENT
FOR JAIL SERVICES**

THIS INTERLOCAL AGREEMENT FOR JAIL SERVICES (hereinafter "Agreement") is made and entered into by and between the CITY OF MARYSVILLE (hereinafter "Marysville"), and the CITY OF KIRKLAND (hereinafter "Kirkland").

WHEREAS, Chapters 39.34 and 70.48 RCW authorize cities to enter into contracts for jail services that specify the responsibilities of each party; and

WHEREAS, Marysville has a jail facility, and Kirkland desires to enter into this agreement to utilize Marysville's jail facility and the terms and conditions of this agreement;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, Marysville and Kirkland mutually agree as follows:

1. **DEFINITIONS.** Unless the context clearly shows another usage is intended, the following terms shall have the following meanings in this agreement:

a. **Marysville Jail** means a place owned and operated by Marysville primarily designed, staffed and used for the housing of adults

charged with a criminal offense; for the punishment and correction of offenders after conviction of a criminal offense; or for confinement and/or holding during a criminal investigation, or a civil detention to enforce a court order. As of the date of the execution of this agreement, this jail is located at 1635 Grove, Marysville, Washington.

b. **Kirkland prisoner** means a person arrested by Kirkland Police and held and confined in the Marysville Jail (either pre- or post-trial) pursuant to a violation of a Kirkland ordinance or a violation of state law which designates the crime for which the person is held to be a misdemeanor or gross misdemeanor. The term **Kirkland prisoner** shall not include a person arrested for a felony offense by Kirkland Police, a person arrested on a warrant issued by another jurisdiction or for charges initiated by a non-Kirkland Police officer, or a person charged by the County Prosecutor with a felony or an attempt to commit a felony, even if there is a plea to or a conviction of a lesser offense. A Kirkland prisoner shall not include juveniles.

2. JAIL AND HEALTH SERVICES.

a. For prisoners accepted under this Agreement, Marysville shall accept Kirkland prisoners and furnish jail facilities, booking, custodial services, and personnel for the confinement of Kirkland prisoners equal to those Marysville provides for the confinement of its own prisoners. Medical costs for emergency or necessary health care for Kirkland prisoners shall be the responsibility of Kirkland. In the event an inmate is transported to the hospital, the hospital shall be directed to bill Kirkland directly. With respect to inmate prescriptions, Kirkland agrees to utilize the same pharmacies as Marysville, and Kirkland shall be billed directly for its inmates' prescriptions. Kirkland retains the option to contract with medical providers to provide medical service to Kirkland prisoners. Marysville shall notify Kirkland prior to outside medical care being provided for a Kirkland prisoner; provided, however, that when emergency medical care is required in life-threatening circumstances, the notification may occur as soon as practicable, which may be after emergency medical care has been provided.

b. While Marysville will have the primary responsibility for transporting prisoners to the Snohomish County Jail and to medical care providers during this agreement, Marysville may request Kirkland to provide the transport of prisoners when Marysville Jail and police staff are unavailable. The rate and payment amount set forth in **Schedule A** shall include the cost of transport of Kirkland prisoners.

3. ACCEPTANCE OF PRISONERS.

a. Kirkland understands that Marysville will accept prisoners on a nonexclusive basis under this Agreement. The acceptance of prisoners is subject to space being available. Marysville reserves the right to reserve space in the jail for its anticipated prisoner needs and may require the removal of Kirkland prisoners to accommodate Marysville prisoners. If Kirkland prisoners are to be displaced and must be removed from the jail, Marysville agrees to provide Kirkland with notice in writing that the Kirkland prisoner must be removed.

b. Prisoners may not be incarcerated in the Marysville Jail longer than thirty (30) days or contrary to any federal or state statutes or regulations or constitutional requirements for the Marysville Jail. Should an inmate serve his/her 30-day sentence in the Marysville Jail and still have additional days of jail time, Kirkland will have the option of transporting their inmates to another facility or have Marysville transport with reimbursement by Kirkland of Marysville's actual costs. Should transportation be required for Kirkland inmates to appear in other than the Marysville Municipal Courts, transportation will be the responsibility of Kirkland.

c. Kirkland agrees that if any Kirkland prisoner is deemed out of control or dangerous by the personnel at the Marysville Jail, on eight (8) hours' notice from Marysville to Kirkland, Kirkland shall make arrangements to remove and transport to another facility. Marysville may also refuse to book any persons who are suspected to be an extreme danger to themselves or to other inmates. In cases where a Kirkland prisoner has obvious medical needs, Kirkland shall transport such prisoner to a medical facility for treatment prior to being booked into Marysville's Jail. In all cases, Kirkland officers will remain at the Marysville Jail until the prisoner is accepted by the Marysville custody staff.

4. **RATE AND PAYMENT.** Kirkland shall pay Marysville at a rate per prisoner on a 24-hour basis (or portion of 24 hours) set out in **Schedule A** attached hereto. Said rates shall be adjusted from time to time by mutual agreement in advance of the renewal of any term of this agreement as provided in Section 6. Kirkland shall be responsible for all costs for the transport of its prisoners.

a. Payment shall be made promptly by Kirkland to Marysville within thirty (30) days after a monthly statement is submitted by Marysville to

Kirkland.

b. Each party may examine the other's books and records to verify charges. If an examination reveals an improper charge, an adjustment shall be applied to the next month's statement, or if the agreement has terminated, by an appropriate payment from one to the other. The parties agree to meet at least once each year to examine and verify charges for the previous year. The parties shall enter into a written agreement verifying and reconciling charges for the previous year and closing the books on an annual basis.

c. Should the prisoner be sentenced to pay a portion of the daily rate, that amount once paid will be deducted from the full daily rate.

5. **DURATION.** The initial term of this agreement shall commence October 1, 2006, upon execution by both parties and shall expire on December 31, 2009. Kirkland shall have an option to renew this agreement for a three-year term commencing on January 1, 2010, and ending on December 31, 2013, and a second renewal for a four-year term, commencing on January 1, 2014 and ending on December 31, 2018. Said renewals shall be subject only to mutual agreement of the parties with the rate and payment set forth in **Schedule A**.

6. **RECORD KEEPING (BOOKING).** Marysville agrees to maintain a system of record keeping relative to the booking and confinement of each Kirkland prisoner in such style and manner as equivalent to Marysville's records pertaining to its own prisoners. Such records shall include, but not be limited to, the following information: defendant's name, charge, booking date, release date, and manner of release (i.e., personal recognizance, bond, cash bail). Along with monthly billing statements, Marysville shall submit to Kirkland or its authorized representatives copies of said records.

7. **BOOKING PROCEDURE.** Prisoners will be booked by Marysville according to procedures and policies of Marysville by completing for each such prisoner an appropriate booking sheet with a copy to be provided to Kirkland, if requested. Personal property will be held by Marysville in the same manner as for its own prisoners.

8. **RELEASE OF KIRKLAND PRISONERS FROM MARYSVILLE JAIL.** No Kirkland prisoner confined in the Marysville jail subject to this Agreement shall be released except:

a. When requested by a member of Kirkland Police Department;

- b. In compliance with orders of the court in those matters in which the courts have jurisdiction;
- c. For appearance in court;
- d. For interviews by Kirkland Police or attorneys;
- e. If the prisoner has served his or her sentence or the charge pending against the prisoner has been dismissed; or
- f. As determined by the Marysville Chief of Police or his designee as part of a plan to reduce prisoner population as a result of facility overcrowding; PROVIDED, however, Marysville and Kirkland prisoners shall be released or relocated to a mutually agreed upon facility on a "first in first out" basis.
- g. Where in the discretion of the custody/patrol supervisor or jail administrator such release is warranted, Marysville shall notify Kirkland Police of such event as soon as possible.

9. **ALTERNATIVE/PARTIAL CONFINEMENT.** Kirkland prisoners shall be considered for Marysville's alternative and partial confinement programs on an equal basis with Marysville prisoners and subject to the same rules and regulations, as well as potential sanctions, for program rule violations. Kirkland shall have access to all alternative sentencing options which are available now and which may become available in the future. Prisoner participation in such programs may be limited to an operational capacity as identified by Marysville. Alternative and partial confinement programs shall include, but not be limited to, work release and work crew. It is understood by the parties that the term "alternative confinement program" shall include electronic home monitoring.

10. **ACCESS TO KIRKLAND PRISONERS.** All Kirkland Police officers, investigators, interpreters, mental health professionals, the prosecuting attorney and the prisoner's counselor or assigned counsel shall have the right to interview the prisoner inside the confines of the Marysville Jail, subject only to necessary security rules. Interview rooms will be made available to Kirkland Police and others in equal priority with those made available for Marysville prisoners.

11. **OPERATION OF JAIL.** Marysville agrees to operate the jail to current professional standards and practices in accordance with all state and federal standards, whether set by constitution, statute or regulation. Kirkland shall receive

equal treatment to that supplied to Marysville's own prisoners.

12. INDEMNIFICATION.

a. Except as otherwise provided in 12(c), Kirkland agrees to defend, indemnify and hold harmless Marysville 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 of or arising out of any act or omission of Kirkland, its officers, agents and employees, or any of them in arresting, detaining, charging or transporting prisoners. In the event that any suit based upon such a claim, action, loss or damage is brought against Marysville, Kirkland shall defend the same at its sole cost and expense; provided, that Marysville retains the right to participate in said suit if any principle of governmental or public law is involved; and if a final judgment is rendered against Marysville, its officers, agents, employees or any of them or jointly against Marysville and Kirkland and their respective officers, agents and employees or any of them, Kirkland shall satisfy and discharge the same.

b. Except as otherwise provided in 12(c), Marysville shall defend, indemnify and hold harmless Kirkland 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 of or arising out of any act or omission of Marysville, its officers, agents and employees, or any of them in confining or releasing persons who have been presented to and accepted by the Marysville Jail by Kirkland, its officers, agents and employees while said persons are in the Jail or in the custody of Marysville outside the Jail, except to the extent said claim, action, loss or damage is the result of the negligence of Kirkland. In the event that any suit based upon such a claim, action, loss or damage is brought against Kirkland, Marysville shall defend the same at its sole cost and expense, provided that Kirkland retains the right to participate in said suit if any principle of governmental or public law is involved, and if a final judgment is rendered against Kirkland, its officers, agents and employees or any of them, or jointly against Kirkland and Marysville and their respective officers, agents and employees or any of them, Marysville shall satisfy and discharge the same.

c. In the event of the concurrent negligence of the parties, each party shall be responsible for payment of any claim or judgment in proportion to the percentage fault attributed to that party.

d. The indemnities provided for in this paragraph 12 shall apply to

all legal costs and attorneys' fees incurred by the party indemnified. In any action to enforce the indemnities provided for in this paragraph, the prevailing party shall be entitled to recovery of costs and attorneys' fees for the enforcement of these indemnities.

13. **INSURANCE.** At the date of entering into this agreement, the City of Marysville and the City of Kirkland are members of the Washington Cities Insurance Authority (WCIA). So long as each city maintains membership in the insurance pool and agrees to abide by the compact and all other applicable rules, regulations and requirements that are necessary to keep each city as a member in good standing neither City shall be required to acquire other or additional insurance. In the event either party to this agreement ceases to be a member of the insurance pool, the parties shall renegotiate the insurance provisions of this agreement with the intent being the provision of insurance which adequately covers the nature of the risks associated with each party's responsibilities under this agreement.

14. **TERMINATION OF AGREEMENT.** Kirkland shall provide written notice of its intent to terminate this agreement without cause not less than 180 days prior to expiration of this agreement. Marysville shall provide written notice of its intent to terminate this agreement not less than one hundred eighty (180) days prior to expiration of this agreement (or any renewal thereof). In the event of termination of this agreement (or any extension thereof), the parties will work cooperatively to ensure the orderly transition of defendants from Marysville jail to the new facility.

15. **DISPUTE RESOLUTION.**

a. The Police Chiefs for each city and appropriate staff shall meet quarterly to discuss any pending issues and to resolve disputes, if any.

b. It is the parties' intent to resolve any disputes relating to the interpretation or application of this agreement informally through discussions at the staff level as described in paragraph 15(a) above. In the event disputes cannot be resolved informally, resolution shall be sought by the City Administrator and City Manager. If the City Administrator and City Manager reach no resolution within thirty (30) days, the parties agree to submit the dispute to nonbinding mediation/dispute resolution.

16. **WAIVER.** No waiver of any right under this Agreement shall be effective unless made in writing by the authorized representative of the party to be bound thereby. Failure to insist upon full performance on any one or several occasions does not constitute consent to or waiver of any later nonperformance.

17. **ASSIGNMENT.** Neither this Agreement nor any interest herein or claim hereunder shall be assigned or transferred, in whole or in part, by either Marysville or Kirkland to any other person or entity without the prior written consent of the other party. In the event that such prior written consent to an assignment is granted, the assignee shall assume all duties, obligations and liabilities of its assignor stated in this Agreement.

18. **INDEPENDENT CONTRACTOR.** Each party to this agreement is an independent contractor with respect to the subject matter herein. Nothing in this agreement shall make any employee of Marysville an employee of Kirkland, and vice versa, for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges according to either city's employee by virtue of their employment. At all times pertinent hereto, employees of Marysville are acting as Marysville employees and employees of Kirkland are acting as Kirkland employees.

19. **PARTIAL INVALIDITY.** Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

20. **ASSIGNABILITY.** The rights, duties and obligations of either party to this agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

21. **NO THIRD-PARTY RIGHTS.** Except as expressly provided herein, nothing in this agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

22. **ENTIRE AGREEMENT.** This agreement constitutes the entire agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or bind any of the parties hereto. Either party may request changes in the agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.

23. **SEVERABILITY.** If any portion of this Agreement is changed per mutual agreement, or any portion is held invalid, the remainder of the Agreement shall remain in full force and effect.

24. **INTEGRATION.** This written Agreement constitutes the complete and final agreement between Marysville and Kirkland. There are no other oral or written agreements between the parties as to the subjects covered by this Agreement. No changes or additions to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and executed by both parties.

25. **NOTICES AND ADMINISTRATOR.** Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties at their addresses as follows:

TO CITY OF KIRKLAND:

City Manager
City of Kirkland
City Hall
123 5th Avenue
Kirkland, WA 98294

TO CITY OF MARYSVILLE:

City Administrator
1049 State Avenue
Marysville, WA 98270

The Marysville Chief of Police shall serve as Marysville's administrator or responsible official for this Agreement. The Chief of Police for Kirkland shall serve as Kirkland's administrator or responsible official for this Agreement.

26. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington as they now read or are hereafter amended.

27. **APPROVAL AND FILING.** Each party shall approve this Agreement by resolution, ordinance or otherwise pursuant to the laws of the governing body of said party. The attested signature of the officials identified below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Snohomish County Auditor's office pursuant to RCW

39.34.040.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 2006.

CITY OF KIRKLAND

CITY OF MARYSVILLE

By _____
David Ramsay, City Manager

By _____
Dennis L. Kendall, Mayor

DATE: _____

DATE: _____

APPROVED as to form:

APPROVED as to form:

Robin S. Jenkinson, City Attorney

Grant K. Weed, City Attorney

DATE: _____

DATE: _____

SCHEDULE A

Booking fee \$32.00

* Should Marysville decide to collect booking fees pursuant to RCW 70.48.390 from the funds possessed by the prisoner or defendant directly at the time of booking, the booking fee to be paid by the City of Kirkland for such prisoner or defendant shall be adjusted by a credit in favor of the City Kirkland of that sum actually paid by the prisoner or defendant.

Inmate transfer administrative fee \$10.00

* In cases where Kirkland prisoners are relocated to another jail facility other than the Snohomish County jail, Kirkland agrees to reimburse Marysville for the actual rates and fees charged by such other jail facility.

Daily maintenance fee \$55.00 per day per bed until December 31, 2006 and
\$57.00 per day per bed starting January 1, 2007.

*Kirkland agrees to contract on an "as needed basis" per day, at a rate of \$55.00 per day per bed until December 31, 2006 and \$57 per day per bed starting January 1, 2007.