

RESOLUTION NO. 4295

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING AND AUTHORIZING THE MAYOR TO SIGN ON THE CITY'S BEHALF THE FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITIES OF ANACORTES, AUBURN, BELLEVUE, BELLINGHAM, BOTHELL, BREMERTON, BUCKLEY, BURIEN, BURLINGTON, CAMAS, DES MOINES, ELLENSBURG, EVERETT, FEDERAL WAY, FIRCREST, KENNEWICK, KENT, LONGVIEW, MARYSVILLE, MOUNT VERNON, NORMANDY PARK, ORTING, PORT ANGELES, PULLMAN, PUYALLUP, RENTON, RICHLAND, SAMMAMISH, SEATAC, SUMNER, UNIVERSITY PLACE AND VANCOUVER, AND KITSAP COUNTY, REGARDING LEGAL SERVICES

WHEREAS, the City of Auburn joined with a number of other cities in trying to modify the new Department of Ecology regulations for NPDES Phase II Permitees; and

WHEREAS, this legal challenge has become more complicated and thus more expensive since the cities' efforts are not only being resisted by the Department of Ecology but environmental groups that have also sought to influence the ultimate permit requirements; and

WHEREAS, to assure that the city positions are reflected in the ultimate permit requirements, it is appropriate that the participating cities increase their financial contribution towards the legal costs involved.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, HEREBY RESOLVES as follows:

Section 1. That the Mayor is hereby authorized to sign on the City's behalf an amendment to the interlocal agreement between the cities of

Anacortes, Auburn, Bellevue, Bellingham, Bothell, Bremerton, Buckley, Burien, Burlington, Camas, Des Moines, Ellensburg, Everett, Federal Way, Fircrest, Kennewick, Kent, Longview, Marysville, Mount Vernon, Normandy Park, Orting, Port Angeles, Pullman, Puyallup, Renton, Richland, Sammamish, Seatac, Sumner, University Place and Vancouver, and Kitsap County, in substantial conformity with the amendment attached hereto as Exhibit "A", to increase the City's final contribution towards the legal costs in the legal challenge to modify the Department of Ecology's NPDES Phase II permit requirements.

Section 2. That the Mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation, including approving an additional payment of \$5,000 over the amounts heretofore approved, including in Resolution No. 4258.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2008.

CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

EXHIBIT "A"

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITIES OF ANACORTES, AUBURN, BELLEVUE, BELLINGHAM, BOTHELL, BREMERTON, BUCKLEY, BURIEN, BURLINGTON, CAMAS, DES MOINES, ELLENSBURG, EVERETT, FEDERAL WAY, FIRCREST, KENNEWICK, KENT, LONGVIEW, MARYSVILLE, MOUNT VERNON, NORMANDY PARK, ORTING, PORT ANGELES, PULLMAN, PUYALLUP, RENTON, RICHLAND, SAMMAMISH, SEATAC, SUMNER, UNIVERSITY PLACE AND VANCOUVER AND KITSAP COUNTY REGARDING LEGAL SERVICES

THE INTERLOCAL AGREEMENT ("Agreement") entered into between the Cities of Anacortes, Auburn, Bellevue, Bellingham, Bothell, Bremerton, Buckley, Burien, Burlington, Camas, Des Moines, Ellensburg, Everett, Federal Way, Fircrest, Kennewick, Kent, Longview, Marysville, Mount Vernon, Normandy Park, Orting, Port Angeles, Pullman, Puyallup, Renton, Richland, Sammamish, SeaTac, Sumner, University Place, Vancouver, and Kitsap County, and any other Phase II Permittees that might become a party to this Interlocal known as the "Coalition of Governmental Entities" is hereby amended as follows:

The names of Bellingham, Ellensburg and Kennewick shall be stricken from the Coalition Interlocal Agreement as these jurisdictions have withdrawn from the Coalition pursuant to notice given under Paragraph 5.1 of the Interlocal and have withdrawn from the litigation related to the Phase II permits.

Paragraph 4.1 of the Interlocal is hereby amended to read as follows:

4.1 Except as provided in Paragraph 4.2 below, the Legal Services' fees and costs shall be shared equally by all Coalition regardless of a member of the Coalition's population or nature or any other factor distinguishing it from another member of the Coalition. This obligation shall continue through conclusion of the Legal Services as provided in Paragraph 2 above, unless a member of the Coalition terminates its participation in this Agreement as provided in Paragraph 5. Members of the Coalition hereby authorize said fees and costs up to a total of \$925,000. Additional fees and/or costs may be approved by written amendment to this Agreement by Coalition.

Paragraph 4.2 of the Interlocal is hereby amended to read as follows:

4.2 The provider of Legal Services shall provide a monthly bill of its fees and costs to Bellevue. Bellevue shall timely pay the bill on behalf of Coalition. Within 15 days of approval of this Agreement, each member of the Coalition shall remit its proportionate share of the fees and costs to the City of Bellevue. Bellevue shall place these funds into an interest-bearing account, with any interest derived from

these funds to be applied to the costs of the provider of Legal Services. At the time of drafting of the Interlocal Agreement 33 governmental entities had committed to joining this appeal; and paying estimated fees and costs up to \$275,000, with the proportionate share of each member of the Coalition being \$8,333.33. Due to increased costs associated with the Permit cross-appeal filed by Puget Soundkeepers Alliance and others, the Coalition hereby authorizes additional fees and costs between \$600,000 and \$650,000, for a total of costs and fees up to \$925,000. These additional fees and costs are to be paid in full through contributions from each member of the Coalition according to agreement between the members and with consideration given to the financial ability of members to pay. In the event Bellevue must take legal action to collect any amount due from a member of the Coalition, Bellevue shall be entitled to recover all costs for said action including reasonable attorney's fees.

Paragraph 4.3 is hereby amended to read as follows:

4.3 Except as provided in Paragraph 4.2 above, in the event additional governmental entities join this Agreement, the proportionate share of each member of the Coalition shall be reduced accordingly. In the event fewer governmental agencies participate in this Agreement or terminate their participation, the proportionate share of each remaining participating member of the Coalition shall increase accordingly.

All other provisions of the Coalition Interlocal Agreement remain in full force and effect.

IN WITNESS, the parties below execute this First Amendment to the Coalition Interlocal Agreement which shall become effective January ____, 2008.

<p>ANACORTES:</p> <p>CITY OF ANACORTES</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>AUBURN:</p> <p>CITY OF AUBURN</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() _____ - _____ (Telephone)</p>

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BELLEVUE CITY OF BELLEVUE By: _____ Print Name: _____ Its: _____ Date: _____	BOTHELL: CITY OF BOTHELL By: _____ Print Name: _____ Its: _____ Date: _____
NOTICES TO BE SENT TO: _____ _____ _____ () - (Telephone) () - (Facsimile)	NOTICES TO BE SENT TO: _____ _____ _____ () - (Telephone) () - (Facsimile)
APPROVED AS TO FORM: _____	APPROVED AS TO FORM: _____
BREMERTON CITY OF BREMERTON By: _____ Print Name: _____ Its: _____ Date: _____	BUCKLEY: CITY OF BUCKLEY By: _____ Print Name: _____ Its: _____ Date: _____
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BUURIEN: CITY OF BURIEN By: _____ Print Name: _____ Its: _____ Date: _____	BURLINGTON: CITY OF BURLINGTON By: _____ Print Name: _____ Its: _____ Date: _____
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CAMAS: CITY OF CAMAS By: _____ Print Name: _____ Its: _____ Date: _____	DES MOINES: CITY OF DES MOINES By: _____ Print Name: _____ Its: _____ Date: _____
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EVERETT: CITY OF EVERETT By: _____ Print Name: _____ Its: _____ Date: _____	FEDERAL WAY: CITY OF FEDERAL WAY By: _____ Print Name: _____ Its: _____ Date: _____
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FIRCREST: CITY OF FIRCREST By: _____ Print Name: _____ Its: _____ Date: _____	KENT: CITY OF KENT By: _____ Print Name: _____ Its: _____ Date: _____
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LONGVIEW: CITY OF LONGVIEW By: _____ Print Name: _____ Its: _____ Date: _____	MARYSVILLE: CITY OF MARYSVILLE By: _____ Print Name: _____ Its: _____ Date: _____
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MOUNT VERNON: CITY OF MOUNT VERNON By: _____ Print Name: _____ Its: _____ Date: _____	NORMANDY PARK: CITY OF NORMANDY PARK By: _____ Print Name: _____ Its: _____ Date: _____
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<p>ORTING:</p> <p>CITY OF ORTING</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>PORT ANGELES:</p> <p>CITY OF PORT ANGELES</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() - (Telephone)</p> <p>() - (Facsimile)</p>	<p>NOTICES TO BE SENT TO:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>() - (Telephone)</p> <p>() - (Facsimile)</p>
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<p>PULLMAN:</p> <p>CITY OF PULLMAN</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>PUYALLUP</p> <p>CITY OF PUYALLUP</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
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<p>RENTON:</p> <p>CITY OF RENTON</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>	<p>RICHLAND</p> <p>CITY OF RICHLAND</p> <p>By: _____</p> <p>Print Name: _____</p> <p>Its: _____</p> <p>Date: _____</p>
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CITY OF UNIVERSITY PLACE

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Print Name: _____

Its: _____

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CITY OF VANCOUVER

By: _____

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Its: _____

Date: _____

KITSAP COUNTY:

KITSAP COUNTY

By: _____

Print Name: _____

Its: _____

Date: _____

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