



CITY OF KIRKLAND

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: January 26, 2009

Subject: Settlement between Yakima County and City of Renton/
Resolution for Approval of Assurance

RECOMMENDATION:

Council pass the attached Resolution.

BACKGROUND DISCUSSION:

The Council will recall that in 2006, Kirkland joined 11 other King County cities in filing a claim for damages against Yakima County. The claim was based upon Yakima County's failure to open a new jail facility and other operational issues arising under the Interlocal Agreement by which Kirkland and 34 other cities contract for jail services with Yakima County. After several months of negotiation, the claimant cities and Yakima County resolved their dispute. The City Council approved the settlement in June 2007.

At the same time, the City of Renton separately sought to terminate the Interlocal Agreement and Yakima County filed suit. The City of Kirkland recently received the attached letter from Renton indicating that the parties are considering settlement. Renton is requesting that Kirkland, and the other cities which settled with Yakima in 2007, provide assurance that the pending settlement will not trigger claims under Section 8 of the 2007 Settlement Agreement. Section 8 provides:

If Yakima County enters into an agreement with, or otherwise permits, a non-settling city that is a current party to the Agreement to house its inmates at Yakima County on terms more favorable than those contained in the Agreement or in this Settlement Agreement, such more favorable terms shall apply to all Settling Cities. For purposes of this section, 'terms more favorable' shall include any term or condition applicable to housing inmates, such as minimum bed commitment, bed rates or other financial obligations, termination, or commitments or conditions for opening and operating the New Jail Facility, that, compared to the Agreement or this Settlement Agreement, provides some benefit or reduces some burden to the non-settling city.

The settlement terms described in the letter from Renton could be of benefit to Kirkland and the other cities which are parties to the Interlocal Agreement for jail services. Yakima has confirmed that any clarification of the indemnity language would apply equally to all cities in the Interlocal Agreement. It does not appear that Renton is receiving more favorable terms. The Assurance that Renton is seeking to have Kirkland execute is attached to the resolution which would authorize the City Manager to sign the same.

Please let me know if you have any questions.



CITY OF RENTON

Denis Law, Mayor

January 7, 2009

The Honorable James L. Lauinger
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

RECEIVED

IAN 12 2009

CITY OF KIRKLAND
CITY MANAGER'S OFFICE

Dear Mayor Lauinger:

The City of Renton and Yakima County have a substantial opportunity to settle the declaratory judgment litigation now pending in Thurston County Superior Court regarding Renton's termination of its Inmate Housing Agreement with Yakima County.

Yakima County started the litigation to seek full enforcement of Renton's obligations under the agreement. Renton seeks confirmation of its right to terminate the agreement and to recover contract payments made during the 12 months following August 22, 2006, or reimbursement for costs it incurred to house inmates at other jails. Judgment in Yakima County's favor would obligate Renton to pay Yakima County approximately \$260,000 plus costs and attorney fees. Judgment in Renton's favor would obligate Yakima County to return approximately \$450,000 to Renton, plus costs and attorney fees.

The settlement terms now being considered by Renton and Yakima include:

- Renton resumed sending inmates to Yakima County on April 1, 2008.
- Renton remains obligated to its bed commitment of 27 with Yakima County.
- William Collins, Ray Coleman and Jaye Anno will return to Yakima County Department of Corrections for a third round of inspections during the fourth quarter of 2008, or early 2009 depending on availability. The inspections will be at Renton's expense and will be delivered to JAG for review.
- Articulation of a protocol to address problems with inmate safety, security and medical care.
- Clarification of Yakima County's contractual obligation to indemnify a city that is sued on a theory of negligence or deliberate indifference for sending an inmate to Yakima County under the agreement.
- Mutual compromise of Yakima County and Renton's respective financial claims.



Renton and Yakima County have additional work to do to meet these terms and want very much to resolve our differences without expending substantial time and effort in litigation. We believe that some of these terms will benefit all JAG cities. However, settlement on these terms depends on each settling city's assurance to Yakima County and Renton that it will not claim that such settlement entitles it to some financial benefit under Section 8 of the 2007 Settlement Agreement.

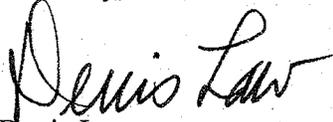
Renton has not received any "preferred" status under the proposed agreement and is paying the same jail fees as all other cities. The cities of Auburn, Bellevue, and Des Moines have already indicated their agreement with the proposed agreement. Yakima is now requesting further assurances from all of the remaining twelve settling cities.

I appreciate the receptiveness Renton has received when discussing our settlement strategy with you. And I appreciate your willingness to do your part to allow Renton and Yakima County to settle our differences.

Please indicate your assurance that your city will not force Yakima County and Renton to litigate their differences and will not claim any benefit under Section 8 of the 2007 Settlement Agreement by signing the enclosed assurance. Please forward your response to Zanetta Fontes, Senior Assistant City Attorney, P.O. Box 626, Renton, Washington 98057, in the enclosed envelope by February 6, 2009.

Please feel free to contact Jay Covington, Chief Administrative Officer, if you have any additional questions at (425) 430-6500.

Sincerely,



Denis Law
Mayor

Enclosures

RESOLUTION R-4740

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN THE ASSURANCE AGREEMENT RELATING TO THE CITY OF RENTON AND YAKIMA COUNTY JAIL SETTLEMENT.

WHEREAS, the City of Renton and Yakima County wish to settle litigation between the two agencies regarding Renton's termination of its Inmate Housing Agreement with Yakima County; and

WHEREAS, assurance is needed by the remaining cities that they will not claim that such settlement entitles those cities to financial benefit; and

WHEREAS, the City of Renton has not received any preferred status under the proposed agreement; and

WHEREAS, it would be in the best interest of the City of Kirkland to sign the assurance agreement;

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 the Assurance agreement regarding the City of Renton and the Yakima Jail substantially similar to the Agreement attached hereto as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

MAYOR

Attest:

City Clerk

ASSURANCE

I, David Ramsay, the City Manager of the City of Kirkland, on behalf of the City of Kirkland hereby assure Yakima County and the City of Renton that the City of Kirkland will not claim that the settlement between Yakima County and the City of Renton, as described above, entitles the City of Kirkland to some financial benefit under Section 8 of the 2007 Settlement Agreement between the Settling Cities and Yakima County.

Kirkland's signing of this Assurance Agreement is subject to Yakima and Renton's agreement that if the Yakima/Renton settlement agreement results in a redrafting of any indemnity provisions currently applicable to Renton and other King County Cities, that any redrafted indemnity provisions that are more favorable than the current indemnity provisions would apply to all applicable King County Cities per Section 8 of the Settlement Agreement and not just Renton.

Date: _____

CITY OF KIRKLAND

By: _____
David Ramsay
City Manager