

Ordinance No. 123158

Council Bill No. 116688

AN ORDINANCE relating to jail services; authorizing the Mayor to execute with the City of Bellevue a proceeds distribution and hold harmless agreement for Seattle's share of real property sale proceeds to be used to facilitate the reduction of Seattle's jail population housed by King County; and ratifying and confirming certain prior acts.

CF No. _____

Date Introduced:	<u>10.19.09</u>	
Date 1st Referred:	To: (committee) <u>Budget</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>12.1.09</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Jean Golden

Councilmember

Committee Action:

11-10-09 Pass 6-0 JG, SC, RC, BH, RM, JR

11-23-09 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

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Indexed

ORDINANCE 123158

AN ORDINANCE relating to jail services; authorizing the Mayor to execute with the City of Bellevue a proceeds distribution and hold harmless agreement for Seattle's share of real property sale proceeds to be used to facilitate the reduction of Seattle's jail population housed by King County; and ratifying and confirming certain prior acts.

WHEREAS, King County entered into a Jail Services Agreement (JSA) with many of the cities located in King County (Contract Cities) to house and provide jail services for Contract Cities' misdemeanants; and

WHEREAS, the JSA provides for the transfer of real property located in Bellevue with tax parcel numbers 2825059291, 2825059292, and 2825059015 (Jail Property) to the City of Bellevue on behalf of all cities located in King County (JAG Cities) to facilitate the Contract Cities reducing their jail populations housed by King County as provided for in Section 11 of said JSA; and

WHEREAS, on October 31, 2002, the City of Bellevue and King County entered into a Land Transfer Agreement (City of Bellevue Clerk's Receiving # 33014) conveying the Jail Property to the City of Bellevue on the JAG Cities' behalf for the purposes described in Section 12 of the JSA; and

WHEREAS, Section 12 of the JSA provides that the Jail Property, or the proceeds from its sale (Proceeds), will be used to contribute to the cost of building secure capacity, or contracting for secure capacity, and at the sole discretion of the Contract Cities, building or contracting for alternative corrections facilities sufficient to enable the Contract Cities to meet the final step of the population reduction schedule in the JSA; and

WHEREAS, JAG Cities, except Kent and Enumclaw, entered into an Interlocal Agreement for Jail Administration (Interlocal Agreement) in part to create rules for administering the obligations related to Sections 11 and 12 of the JSA; and

WHEREAS, on March 26, 2008, the Assembly created by the Interlocal Agreement approved the formula for distribution of Jail Proceeds; and

WHEREAS, on March 16, 2009, the City of Bellevue (Bellevue) sold the Jail Property to Seattle Children's Hospital for \$13 million; and

WHEREAS, the City of Seattle will receive \$4.7 million as its share of the Jail Property proceeds; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

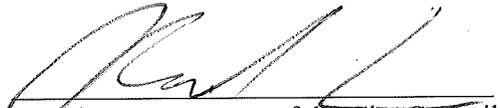


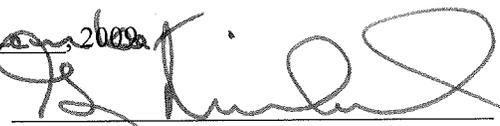
1 Section 1. The Mayor is authorized to execute, for and on behalf of the City of Seattle, an
2 agreement with the City of Bellevue substantially in the form attached, entitled "PROCEEDS
3 DISTRIBUTION AND HOLD HARMLESS AGREEMENT." (Exhibit 1).

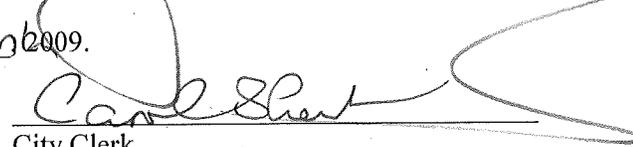
4
5 Section 2. Ratification of Prior Acts. Any action taken consistent with the authority of this
6 ordinance but between its passage and the effective date is ratified, approved, and confirmed.

7
8
9 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its
10 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after
11 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

12 Passed by the City Council the 23rd day of November, 2009, and signed by me in open
13 session in authentication of its passage this 23rd day of November, 2009.

14
15
16 
President _____ of the City Council

17 Approved by me this 1st day of December 2009.
18 
19 Gregory J. Nickels, Mayor

20 Filed by me this 3rd day of December 2009.
21 
22 Acting City Clerk

23 (Seal)

24 Exhibit 1: Proceeds Distribution and Hold Harmless Agreement
25
26
27
28



PROCEEDS DISTRIBUTION AND HOLD HARMLESS AGREEMENT

This Proceeds Distribution and Hold Harmless Agreement (Agreement) is entered into between Seattle (JAG City) and the City of Bellevue and is effective upon the date of the last signature below.

RECITALS

- A. Whereas, King County entered into a Jail Services Agreement (JSA) with many of the cities located in King County (Contract Cities) to house and provide jail services for Contract Cities' misdemeanants;
- B. Whereas, the JSA provides for the transfer of real property located in Bellevue with tax parcel numbers 2825059291, 2825059292, and 2825059015 (Jail Property) to the City of Bellevue on behalf of the JAG Cities to facilitate the Contract Cities reducing their jail population housed by King County as provided in Section 11 of said JSA;
- C. Whereas, Section 12 of the JSA provides that the Jail Property (or the proceeds from its sale [Proceeds]) will be used to contribute to the cost of building secure capacity, or contracting for secure capacity, and at the sole discretion of the Contract Cities, building or contracting for alternative corrections facilities, sufficient to enable the Contract Cities to meet the final step of the population reduction schedule in the JSA;
- D. Whereas, Section 12 of the JSA further provides that in the event the Contract Cities do not meet the objectives set forth in said section, King County would be entitled to return of Proceeds;
- E. Whereas, on October 31, 2002, the City of Bellevue and King County entered into a Land Transfer Agreement [City of Bellevue Clerk's Receiving # 33014] conveying the Jail Property to the City of Bellevue on behalf of all cities in King County (JAG Cities) for the purposes described in Section 12 of the JSA;
- F. Whereas, JAG Cities, except Kent and Enumclaw, entered into an Interlocal Agreement for Jail Administration (Interlocal Agreement) in part to create rules for administering the obligations related to Sections 11 and 12 of the JSA;
- G. Whereas, the obligations of Section 12 of the JSA are incorporated into Section 7.1 of the Interlocal Agreement including its application to all King County Cities;



- H. Whereas, on March 16, 2009, the City of Bellevue (Bellevue) sold the Jail Property to Seattle Children's Hospital for \$13 million;
- I. Whereas, on March 26, 2008, the Assembly created by the Interlocal Agreement approved the distribution of Jail Proceeds;
- J. Whereas, some Cities have acted to designate their portion of the Proceeds towards fulfilling their obligations under the JSA through undertakings such as the SCORE facility;
- K. Whereas, it is the intent of this Agreement that Bellevue stand in no worse (or better) position than any other JAG City with respect to liability or costs associated with the distribution of and/or possible return of Proceeds to King County because of its unique obligations to King County in Section 12 of the JSA as incorporated into the Interlocal Agreement (unique Section 12 obligations);
- L. Now therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and as a precondition for receipt of said Proceeds, the JAG City and Bellevue agree:

AGREEMENT

1. Per the Jail Oversight Assembly approved formula noted in the city-by-city proceeds distribution (Attachment A), Bellevue shall pay JAG City, \$ 4,712,211.12 (representing \$ 4,748,318.33 - its proportionate share of the Proceeds/Interest minus \$36,107.21 - its proportionate share of the expenses Bellevue may recoup as provided in Section 7.2 of the Interlocal Agreement) within 30 days of the execution of this Agreement.
2. Upon receipt of said Proceeds, JAG City acknowledges and agrees that Bellevue has lawfully discharged all obligations and duties of Bellevue to that JAG City under the first paragraph of Section 7.2 of the Interlocal Agreement, and that Bellevue is discharged from all of its obligations and duties to that JAG City under the second paragraph of Section 7.2 of the Interlocal Agreement.
3. JAG City will abide by all requirements regarding the use of and goals related to the proceeds as provided in Section 7.1 of the Interlocal Agreement (whether a party to a JSA or not). JAG City will only leave or place a City Inmate in King County Jail after December 31, 2012 (post 2012 inmate housing) if King County confirms in writing that this post 2012 inmate housing does not violate the population reduction



schedule referenced in Section 12 of the JSA and incorporated into Section 7.1 of the Interlocal Agreement.

4. Should there be a determination that a JAG City failed to abide by the requirements of Section 7.1 (at-fault JAG City) triggering an obligation for Bellevue to return all or part of the at-fault JAG City's Proceeds and any required interest to King County, said Proceeds shall be paid to Bellevue within 10 working days of written notice unless the at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the at-fault JAG City obtains injunctive or other legal relief against King County that absolves Bellevue of any legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period.
5. Bellevue and JAG Cities maintain that King County may only require return of Proceeds from an at-fault JAG City. However, if there is a determination that there is an obligation to return to King County Proceeds in an amount in excess of the amount distributed to an at-fault JAG City(s) then each non at-fault JAG City shall pay up to the full amount of its Proceeds and any required interest to Bellevue within 10 working days of written notice unless the non at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the non at-fault JAG City obtains injunctive or other legal relief against King County that confirms Bellevue has no legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period. If the obligation to return Proceeds is in excess of the at-fault JAG City's distribution, but less than each JAG City's full Proceeds, the amount due King County from the non at-fault JAG Cities shall be a prorated amount based on the percent of Proceeds received to the total Proceeds minus the amount representing the at-fault JAG City's share. The same prorated formula shall apply to required interest due from non at-fault JAG Cities.
6. Should Bellevue be sued for return of proceeds solely because of its unique Section 12 obligations, the alleged at-fault JAG City(s) shall immediately undertake the defense of Bellevue and pay all expenses and costs (including attorney's fees) associated with said defense whether or not said JAG City maintains it is or is ultimately determined to be not at-fault. Should King County be entitled to its attorney's fees in the suit, the at-fault JAG City shall hold Bellevue harmless and indemnify Bellevue from any liability or costs associated with the obligation to pay King County's attorney's fees.
7. Should Bellevue be the only party sued based on the alleged fault of other JAG Cities, those alleged at-fault JAG Cities agree to stipulate to being named as defendants with the concurrence of Plaintiff and/or not oppose Bellevue's motion to be included in the suit as an indispensable party. The obligations of Paragraph 6 shall apply whether or not the alleged at-fault JAG City is named in the litigation.



8. If King County sues Bellevue for return of proceeds because of Bellevue's alleged violation of Section 12 of the JSA regarding use of proceeds or the reduction in jail population along with other JAG Cities for their violations, each party will undertake its own defense at its own cost.
9. At-fault JAG Cities shall be responsible for costs of whatever form or nature associated with Bellevue's unique Section 12 obligations, including but not limited to staff costs in coordinating and collecting proceeds or attorneys fees, and including administrative costs Bellevue incurs even where timely payment of Proceeds is made. Said costs shall be prorated among at-fault JAG Cities as appropriate.
10. In the event Bellevue incurs liability or costs associated with its unique Section 12 obligations and said liability or costs are not addressed in any other provision of this Agreement, each JAG City shall indemnify, hold harmless and defend Bellevue and its elected officials, employees, agents and representatives from and against any and all claims, demands, causes of action, liabilities, judgments, settlements, damages or costs, including reasonable attorney's fees of whatever form related to Bellevue's unique Section 12 obligations in proportion to its share of the proceeds.
11. Each JAG City shall keep its Proceeds in a segregated fund and keep records sufficient to demonstrate that all expenditures of the Proceeds comply with Section 7.1 of the Interlocal Agreement. Said records shall be kept for at least 6 years from the date of the expenditure of the last Proceeds of the JAG City.
12. The JAG City representative who will be responsible for management and expenditure of the fund and for receiving notices related to the obligations under 7.1 of the Interlocal Agreement is (include name, title, address & phone #):

Catherine Cornwall
City of Seattle
600 Fourth Avenue, 6th Floor
PO Box 94747
Seattle, WA 98124-4747
206/684-8725
catherine.cornwall@seattle.gov

JAG City shall notify Bellevue of any change in this designated representative or contact information.

13. The City of Bellevue as a recipient of \$971,638.82 (representing \$979,083.98 - its proportionate share of the Proceeds/Interest minus \$7,445.16 - its proportionate share



of the expenses) is also a JAG City and in that capacity shall be bound by the same terms under this Agreement as any other JAG City.

14. This Agreement shall be authorized by each JAG City's legislative body or other authorizing authority if not within authority of legislative body.

15. General Provisions:

- A. **Governing Law; Forum.** The Agreement will be governed by the laws of Washington and its choice of law rules. The JAG City consents to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.
- B. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- C. **Nonwaiver.** Any failure by a party to enforce strict performance of any provision of the Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of the Agreement.
- D. **No Assignment.** Neither the Agreement nor any of the rights or obligations of the JAG City arising under the Agreement may be assigned without Bellevue's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- E. **Notices.** All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in this Agreement.
- F. **Legal Fees.** In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.



G Counterparts. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

In witness whereof, the parties have executed this Agreement and it shall be effective as of the last date written below.

CITY OF SEATTLE

By: _____
Title: _____

Date: _____

CITY OF BELLEVUE

By: _____
Title: _____

Date: _____

Attachment A: JAG Property Proceeds Distribution, Methodology Approved by the Jail Oversight Assembly on March 26, 2008



JAG Property Proceeds Distribution, Methodology Approved by the Jail Oversight Assembly on March 26, 2008

Cities	Sale Price/Proceeds	Interest/Revenue	Proceeds & Interest/Revenue	Admin/other costs	Cities' Distribution
	Proportionate distributon based on Avg. of AV & ADP (1)	Proportionate Share of Revenues (2)	Proportionate Share of Interest/Revenues	Proportionate Share of Costs (3)	Final City-by-City Proceeds Distribution
	\$12,986,694.50	\$113,034.78		\$99,613.08	\$13,000,116.20
Algona	\$23,168.33	\$201.65	\$23,369.99	\$177.71	\$23,192.28
Auburn	\$801,366.31	\$6,975.01	\$808,341.32	\$6,146.80	\$802,194.52
Beaux Arts	\$2,520.18	\$21.94	\$2,542.11	\$19.33	\$2,522.78
Bellevue	\$970,635.68	\$8,448.31	\$979,083.98	\$7,445.16	\$971,638.82
Black Diamond	\$13,282.47	\$115.61	\$13,398.08	\$101.88	\$13,296.20
Bothell	\$126,754.71	\$1,103.26	\$127,857.97	\$972.26	\$126,885.71
Burien	\$152,631.47	\$1,328.49	\$153,959.95	\$1,170.74	\$152,789.21
Carnation	\$6,301.24	\$54.85	\$6,356.08	\$48.33	\$6,307.75
Clyde Hill	\$42,491.88	\$369.84	\$42,861.73	\$325.93	\$42,535.80
Covington	\$66,049.99	\$574.89	\$66,624.88	\$506.63	\$66,118.25
Des Moines	\$177,128.08	\$1,541.70	\$178,669.78	\$1,358.64	\$177,311.14
Duwall	\$27,973.08	\$243.47	\$28,216.56	\$214.56	\$28,001.99
Enumclaw	\$90,688.23	\$789.34	\$91,477.57	\$695.61	\$90,781.96
Federal Way	\$591,788.18	\$5,150.86	\$596,939.04	\$4,539.25	\$592,399.79
Hunts Point	\$18,431.60	\$160.43	\$18,592.03	\$141.38	\$18,450.65
Issaquah	\$219,690.57	\$1,912.16	\$221,602.73	\$1,685.11	\$219,917.62
Kenmore	\$124,016.44	\$1,079.43	\$125,095.86	\$951.26	\$124,144.61
Kent	\$1,166,452.48	\$10,152.68	\$1,176,605.16	\$8,947.15	\$1,167,658.01
Kirkland	\$425,046.74	\$3,699.56	\$428,746.30	\$3,260.28	\$425,486.02
Lake Forest Park	\$80,748.97	\$702.83	\$81,451.80	\$619.38	\$80,832.42
Maple Valley	\$55,716.09	\$484.95	\$56,201.04	\$427.36	\$55,773.68
Medina	\$76,614.51	\$666.84	\$77,281.36	\$587.66	\$76,693.70
Mercer Island	\$215,059.90	\$1,871.86	\$216,931.76	\$1,649.59	\$215,282.16
Milton	\$1,943.87	\$16.92	\$1,960.79	\$14.91	\$1,945.88
Newcastle	\$53,960.39	\$469.67	\$54,430.06	\$413.90	\$54,016.16
Normandy Park	\$34,419.82	\$299.59	\$34,719.40	\$264.01	\$34,455.39
North Bend	\$26,466.09	\$230.36	\$26,696.45	\$203.01	\$26,493.44
Pacific	\$14,058.03	\$122.36	\$14,180.39	\$107.83	\$14,072.56
Redmond	\$454,343.94	\$3,954.56	\$458,298.50	\$3,485.00	\$454,813.50
Renton	\$1,002,868.14	\$8,728.86	\$1,011,597.00	\$7,692.40	\$1,003,904.60
Sammamish	\$208,156.50	\$1,811.77	\$209,968.27	\$1,596.64	\$208,371.63
SeaTac	\$163,329.98	\$1,421.61	\$164,751.58	\$1,252.81	\$163,498.78
Seattle	\$4,707,346.10	\$40,972.23	\$4,748,318.33	\$36,107.21	\$4,712,211.12
Shoreline	\$385,405.07	\$3,354.52	\$388,759.59	\$2,956.21	\$385,803.38
Skykomish	\$1,617.92	\$14.08	\$1,632.00	\$12.41	\$1,619.59
Snoqualmie	\$67,185.14	\$584.77	\$67,769.91	\$515.34	\$67,254.57
Tukwila	\$287,414.71	\$2,501.63	\$289,916.33	\$2,204.58	\$287,711.75
Woodinville	\$86,231.67	\$750.55	\$86,982.22	\$661.43	\$86,320.79
Yarrow Point	\$17,390.02	\$151.36	\$17,541.38	\$133.39	\$17,407.99
	\$12,986,694.50	\$113,034.78	\$13,099,729.28	\$99,613.08	\$13,000,116.20

NOTES:

(1) The proceeds formula is an average of each city's AV and ADP. Assessed Value (AV) was derived from the King County Assessors Office estimates for 2007. Average Daily Population (ADP) was based on 2005-2007 data provided by each city. The methodology was approved at the March 26, 2008 Jail Oversight Assembly Meeting.

(2) This column includes all interest generated to-date in the account holding the sale property proceeds.

(3) The costs were incurred by the City of Bellevue on behalf of the rest of the cities and are recoupable as provided in Paragraph 7.2 of the Interlocal Agreement.

**Final Version:
July 7, 2009**



PROCEEDS DISTRIBUTION AND HOLD HARMLESS AGREEMENT

This Proceeds Distribution and Hold Harmless Agreement (Agreement) is entered into between Seattle (JAG City) and the City of Bellevue and is effective upon the date of the last signature below.

RECITALS

- A. Whereas, King County entered into a Jail Services Agreement (JSA) with many of the cities located in King County (Contract Cities) to house and provide jail services for Contract Cities' misdemeanants;
- B. Whereas, the JSA provides for the transfer of real property located in Bellevue with tax parcel numbers 2825059291, 2825059292, and 2825059015 (Jail Property) to the City of Bellevue on behalf of the JAG Cities to facilitate the Contract Cities reducing their jail population housed by King County as provided in Section 11 of said JSA;
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- D. Whereas, Section 12 of the JSA further provides that in the event the Contract Cities do not meet the objectives set forth in said section, King County would be entitled to return of Proceeds;
- E. Whereas, on October 31, 2002, the City of Bellevue and King County entered into a Land Transfer Agreement [City of Bellevue Clerk's Receiving # 33014] conveying the Jail Property to the City of Bellevue on behalf of all cities in King County (JAG Cities) for the purposes described in Section 12 of the JSA;
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- G. Whereas, the obligations of Section 12 of the JSA are incorporated into Section 7.1 of the Interlocal Agreement including its application to all King County Cities;
- H. Whereas, on March 16, 2009, the City of Bellevue (Bellevue) sold the Jail Property to Seattle Children's Hospital for \$13 million;
- I. Whereas, on March 26, 2008, the Assembly created by the Interlocal Agreement approved the distribution of Jail Proceeds;

CITY CLERK

2010 FEB 11 PM 2:21

CITY OF SEATTLE

FILED
July 7, 2009

- J. Whereas, some Cities have acted to designate their portion of the Proceeds towards fulfilling their obligations under the JSA through undertakings such as the SCORE facility;
- K. Whereas, it is the intent of this Agreement that Bellevue stand in no worse (or better) position than any other JAG City with respect to liability or costs associated with the distribution of and/or possible return of Proceeds to King County because of its unique obligations to King County in Section 12 of the JSA as incorporated into the Interlocal Agreement (unique Section 12 obligations);
- L. Now therefore, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and as a precondition for receipt of said Proceeds, the JAG City and Bellevue agree:

AGREEMENT

1. Per the Jail Oversight Assembly approved formula noted in the city-by-city proceeds distribution (Attachment A), Bellevue shall pay JAG City, \$ 4,712,211.12 (representing \$ 4,748,318.33 - its proportionate share of the Proceeds/Interest minus \$ 36,107.21 its proportionate share of the expenses Bellevue may recoup as provided in Section 7.2 of the Interlocal Agreement) within 30 days of the execution of this Agreement.
2. Upon receipt of said Proceeds, JAG City acknowledges and agrees that Bellevue has lawfully discharged all obligations and duties of Bellevue to that JAG City under the first paragraph of Section 7.2 of the Interlocal Agreement, and that Bellevue is discharged from all of its obligations and duties to that JAG City under the second paragraph of Section 7.2 of the Interlocal Agreement.
3. JAG City will abide by all requirements regarding the use of and goals related to the proceeds as provided in Section 7.1 of the Interlocal Agreement (whether a party to a JSA or not). JAG City will only leave or place a City Inmate in King County Jail after December 31, 2012 (post 2012 inmate housing) if King County confirms in writing that this post 2012 inmate housing does not violate the population reduction schedule referenced in Section 12 of the JSA and incorporated into Section 7.1 of the Interlocal Agreement.
4. Should there be a determination that a JAG City failed to abide by the requirements of Section 7.1 (at-fault JAG City) triggering an obligation for Bellevue to return all or part of the at-fault JAG City's Proceeds and any required interest to King County, said Proceeds shall be paid to Bellevue within 10 working days of written notice unless the at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the at-fault JAG City obtains injunctive or other legal relief

against King County that absolves Bellevue of any legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period.

5. Bellevue and JAG Cities maintain that King County may only require return of Proceeds from an at-fault JAG City. However, if there is a determination that there is an obligation to return to King County Proceeds in an amount in excess of the amount distributed to an at-fault JAG City(s) then each non at-fault JAG City shall pay up to the full amount of its Proceeds and any required interest to Bellevue within 10 working days of written notice unless the non at-fault JAG City makes other acceptable arrangements with Bellevue and/or King County or the non at-fault JAG City obtains injunctive or other legal relief against King County that confirms Bellevue has no legal obligation to return said Proceeds and interest prior to the expiration of the 10 working day period. If the obligation to return Proceeds is in excess of the at-fault JAG City's distribution, but less than each JAG City's full Proceeds, the amount due King County from the non at-fault JAG Cities shall be a prorated amount based on the percent of Proceeds received to the total Proceeds minus the amount representing the at-fault JAG City's share. The same prorated formula shall apply to required interest due from non at-fault JAG Cities.
6. Should Bellevue be sued for return of proceeds solely because of its unique Section 12 obligations, the alleged at-fault JAG City(s) shall immediately undertake the defense of Bellevue and pay all expenses and costs (including attorney's fees) associated with said defense whether or not said JAG City maintains it is or is ultimately determined to be not at-fault. Should King County be entitled to its attorney's fees in the suit, the at-fault JAG City shall hold Bellevue harmless and indemnify Bellevue from any liability or costs associated with the obligation to pay King County's attorney's fees.
7. Should Bellevue be the only party sued based on the alleged fault of other JAG Cities, those alleged at-fault JAG Cities agree to stipulate to being named as defendants with the concurrence of Plaintiff and/or not oppose Bellevue's motion to be included in the suit as an indispensable party. The obligations of Paragraph 6 shall apply whether or not the alleged at-fault JAG City is named in the litigation.
8. If King County sues Bellevue for return of proceeds because of Bellevue's alleged violation of Section 12 of the JSA regarding use of proceeds or the reduction in jail population along with other JAG Cities for their violations, each party will undertake its own defense at its own cost.
9. At-fault JAG Cities shall be responsible for costs of whatever form or nature associated with Bellevue's unique Section 12 obligations, including but not limited to staff costs in coordinating and collecting proceeds or attorneys fees, and including administrative costs Bellevue incurs even where timely payment of Proceeds is made. Said costs shall be prorated among at-fault JAG Cities as appropriate.

10. In the event Bellevue incurs liability or costs associated with its unique Section 12 obligations and said liability or costs are not addressed in any other provision of this Agreement, each JAG City shall indemnify, hold harmless and defend Bellevue and its elected officials, employees agents and representatives from and against any and all claims, demands, causes of action, liabilities, judgments, settlements, damages or costs, including reasonable attorney's fees of whatever form related to Bellevue's unique Section 12 obligations in proportion to its share of the proceeds.

11. Each JAG City shall keep its Proceeds in a segregated fund and keep records sufficient to demonstrate that all expenditures of the Proceeds comply with Section 7.1 of the Interlocal Agreement. Said records shall be kept for at least 6 years from the date of the expenditure of the last Proceeds of the JAG City.

12. The JAG City representative who will be responsible for management and expenditure of the fund and for receiving notices related to the obligations under 7.1 of the Interlocal Agreement is (include name, title, address & phone #):

Catherine Cornwall, Senior Policy Analyst
Office of Policy and Management, PO Box 94745
Seattle, WA 98124-4745
206-684-8725

JAG City shall notify Bellevue of any change in this designated representative or contact information.

13. The City of Bellevue as a recipient of \$ 971,638.82 (representing \$ 979,083.98 - its proportionate share of the Proceeds/Interest minus \$ 7,445.16 its proportionate share of the expenses) is also a JAG City and in that capacity shall be bound by the same terms under this Agreement as any other JAG City.

14. This Agreement shall be authorized by each JAG City's legislative body or other authorizing authority if not within authority of legislative body.

15. General Provisions:

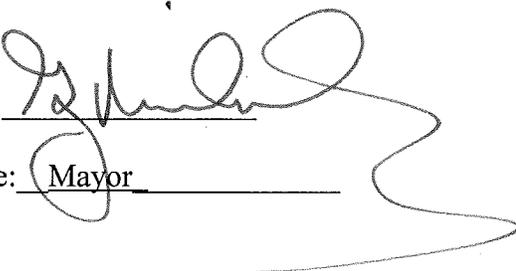
A. **Governing Law; Forum.** The Agreement will be governed by the laws of Washington and its choice of law rules. The JAG City consents to the exclusive personal jurisdiction and venue of the federal and state courts located in King County, Washington, with respect to any dispute arising out of or in connection with the Agreement, and agrees not to commence or prosecute any action or proceeding arising out of or in connection with the Agreement other than in the aforementioned courts.

B. **Severability.** If any provision of the Agreement is held to be invalid or unenforceable for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.

- C. Nonwaiver. Any failure by a party to enforce strict performance of any provision of the Agreement will not constitute a waiver of that party's right to subsequently enforce such provision or any other provision of the Agreement.
- D. No Assignment. Neither the Agreement nor any of the rights or obligations of the JAG City arising under the Agreement may be assigned without Bellevue's prior written consent. Subject to the foregoing, the Agreement will be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- E. Notices. All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in this agreement.
- F. Legal Fees. In any lawsuit between the parties with respect to the matters covered by the Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs incurred in the lawsuit, in addition to any other relief it may be awarded.
- G. Counterparts. The Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.

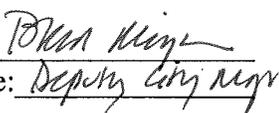
In witness whereof, the parties have executed this Agreement and it shall be effective as of the last date written below.

CITY OF SEATTLE

By: 
Title: Mayor

Date: 12/11/09

CITY OF BELLEVUE

By: 
Title: Deputy City Manager

Date: 12-18-09

2010-2011 BUDGET LEGISLATION FISCAL NOTE

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Municipal Jail Sub-Fund	Catherine Cornwall/4-8725	Katie Ewing/3-9580

Legislation Title:

AN ORDINANCE relating to jail services; authorizing the Mayor to execute with the City of Bellevue a proceeds distribution and hold harmless agreement for Seattle's share of real property sale proceeds to be used to facilitate the reduction of Seattle's jail population housed by King County; and ratifying and confirming certain prior acts.

• **Summary of the Legislation:**

This legislation authorizes the execution of an interlocal agreement with the City of Bellevue to establish the terms and principles for distributing proceeds from the sale of property that the City of Bellevue held in trust for all the cities in King County. The City of Seattle's \$4.7 million share of the revenue from the property sale is to be used to construct or contract for additional secure jail facilities, or to construct or contract for additional alternative correctional facilities, that will reduce Seattle's use of the King County Jail to zero by the time its contract with the County expires on December 31, 2012.

• **Background:**

In the 2002 Interlocal Agreement (ILA) between King County and all of the cities located therein (including Seattle), the County transferred ownership of property within Bellevue's city limits to the City of Bellevue to hold in trust on behalf of King County cities. The property, or proceeds from sale of the property, was to be used to help provide funding to cities for new misdemeanor jail capacity.

On March 26, 2008 the Jail Oversight Assembly authorized distribution of the sales proceeds based on a formula of an average of each King County city's AV (assessed value) and ADP (inmate average daily population) based on the anticipated sale of the jail property. Distribution of the funds will allow cities to meet the intent of the property transfer. The City of Seattle's estimated share of the funds is approximately \$4.7 million.

In March 2009, the City of Bellevue completed the sale of the jail property to Children's Hospital. Bellevue is holding the proceeds in a designated account pending the execution of an agreement with each city to receive its share of the proceeds.

Use of the property or proceeds from the property is spelled out in the 2002 ILA with King County, which states that cities will: 1) use the funds to contribute to the cost to construct or contract for secure facilities, and also may use the funds to construct or contract for alternative



correction facilities at the discretion of the cities; and 2) reduce the city misdemeanor population at King County facilities to zero by December 31, 2012.

X This legislation has financial implications. Please complete all relevant sections that follow.

Summary of Changes to Revenue Generated Specifically From This Legislation: *For budget legislation that changes revenue (e.g., fees, taxes, etc.), please provide detail on each revenue-producing item that is being changed, when it was last changed, and how the item's new overall cost compares with similar costs charged elsewhere in the region.*

	Revenue Source	2010 Proposed
Total Fees and Charges Resulting From Passage of This Ordinance	Property sale proceeds	\$4,712,211.12

Anticipated Total Revenue from Entire Program, Including Changes Resulting From This Legislation:

Fund Name and Number	Revenue Source	Total 2010 Revenue
Municipal Jail Sub-Fund (00139)	Property sale proceeds	\$4,712,211.12
TOTAL		\$4,712,211.12

- What is the financial cost of not implementing this legislation? The City will lose \$4.7 million of one-time revenue which can be used to offset jail planning costs.
- Does this legislation affect any departments besides the originating department? No.
- What are the possible alternatives to the legislation that could achieve the same or similar objectives? None.
- Is the legislation subject to public hearing requirements? No.
- Other Issues (including long-term implications of the legislation):

Please list attachments to the fiscal note below:





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 25, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

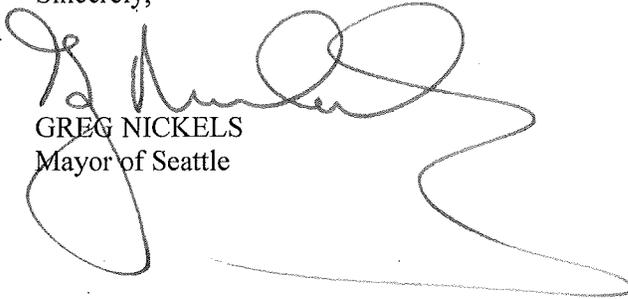
Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill for consideration with the 2010 Proposed Budget. This legislation authorizes the execution of an interlocal agreement with the City of Bellevue that reflects the terms under which Seattle will receive \$4.7 million to be used to build or contract for additional jail capacity to accommodate the city's jail population that is currently housed by King County.

In a 2002 Interlocal Agreement executed between many of the cities located in King County (Contract Cities) and King County, the County transferred ownership of property located within Bellevue's city limits to the City of Bellevue to hold in trust on the Contract Cities' behalf. The property, or proceeds from sale of the property, was to be used to help provide the Contract Cities with funding for new misdemeanor jail capacity. In March 2009, the City of Bellevue sold the property to Children's Hospital and deposited the proceeds in a designated account pending the execution of an agreement with each city for its share of the proceeds.

The \$4.7 million Seattle will receive as a result of this legislation will be placed in the Municipal Jail Subfund and used to help offset the costs incurred in jail capacity planning. Thank you for your consideration of this legislation. Should you have questions, please contact Catherine Cornwall at 684-8725.

Sincerely,



GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@seattle.gov

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



STATE OF WASHINGTON – KING COUNTY

--SS.

248065
CITY OF SEATTLE, CLERKS OFFICE

No. 73-75,77,79-80,85

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

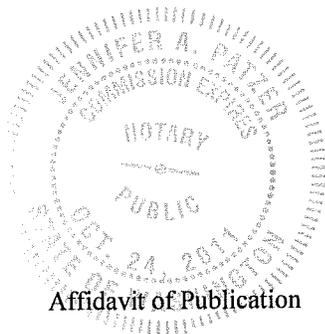
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:123156-59,63-66,68-69

was published on

12/10/09

The amount of the fee charged for the foregoing publication is the sum of \$ 254.70, which amount has been paid in full.



[Signature]

Subscribed and sworn to before me on
12/10/09 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on November 23, 2009, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123156

AN ORDINANCE relating to contracting indebtedness; authorizing and providing for the issuance and sale of limited tax general obligation bonds to pay all or part of the cost of financing elements of the City's capital improvement program, issuing and selling the bonds; and other City purposes approved by ordinance; providing for terms and sale of the bonds; creating a project fund; amending Ordinance 122848; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123157

AN ORDINANCE related to funding from non-City sources; authorizing City Department Heads and certain Directors governed by SMC Chapter 3.14 to accept certain grants in amounts not to exceed Fifteen Thousand Dollars, to negotiate and execute contracts and agreements in order to receive funding under those grants and make associated expenditures in accordance with the terms of the applicable grants; and creating a new chapter 5.33 in the Seattle Municipal Code.

ORDINANCE NO. 123158

AN ORDINANCE relating to jail services; authorizing the Mayor to execute with the City of Bellevue a proceeds distribution and hold harmless agreement for Seattle's share of real property sale proceeds to be used to facilitate the reduction of Seattle's jail population housed by King County; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123159

AN ORDINANCE relating to the Department of Parks and Recreation; establishing the 2010 fee schedule for the use of park properties and other park and recreation facilities and services; superseding previous park and recreation fee schedules; and amending Section 18.28.010 of the Seattle Municipal Code.

ORDINANCE NO. 123163

AN ORDINANCE relating to the Seattle Department of Transportation's financing of certain capital activities for street paving purposes; and amending Ordinance 122641 to extend the term of an interfund loan.

ORDINANCE NO. 123164

AN ORDINANCE relating to the financing of the South Lake Union Streetcar project; amending Ordinance 122603 to extend the term of an interfund loan.

ORDINANCE NO. 123165

AN ORDINANCE relating to City employment; authorizing the Mayor to sign and execute a memorandum of understanding between the City of Seattle and certain City unions, and a memorandum of understanding between the City of Seattle and the Seattle Municipal Court and certain City unions, both memoranda establishing a furlough program in 2010; and ratifying and confirming prior acts.

ORDINANCE NO. 123166

AN ORDINANCE relating to City employment; establishing a 2010 furlough program for certain employees not covered by collective bargaining agreements; extending the time employees laid off in 2009 and 2010 would be in Project Hire and on reinstatement lists from one year to two; and ratifying and confirming prior acts.

ORDINANCE NO. 123168

AN ORDINANCE relating to the municipal water system of The City of Seattle; adopting a system or plan of additions or betterments to or extensions of the existing municipal water system; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purposes of paying part of the cost of carrying out that system or plan, providing a bond reserve and paying the costs of issuing and selling the bonds; providing for the terms, conditions, covenants and manner of sale of those bonds; describing the lien of the bonds; creating certain accounts of the City relating to those bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123169

AN ORDINANCE relating to the electric system of The City of Seattle; authorizing the issuance and sale of municipal light and power revenue bonds for the purposes of providing funds for certain additions and betterments to and extensions of the existing municipal light and power plant and system of the City, capitalizing interest on and paying the costs of issuing and selling those bonds and providing for the reserve fund requirement; providing for the terms, conditions, covenants and manner of sale of those bonds; describing the lien of those bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123173

AN ORDINANCE relating to compensation for certain City officers and employees not covered by collective bargaining agreements; and providing salary increases effective January 5, 2011.

ORDINANCE NO. 123174

AN ORDINANCE relating to City employment; authorizing the Mayor to execute a memorandum of understanding between the City of Seattle and certain individual unions in the Coalition of City Unions, a memorandum of understanding between the City of Seattle and the Pacific Northwest Regional Council of Carpenters, and a memorandum of understanding between the City of Seattle and the International Association of Machinists and Aerospace Workers District Lodge 160, Local 289, all amending collective bargaining agreements expiring December 31, 2010.

ORDINANCE NO. 123175

AN ORDINANCE amending the 2009 Adopted Budget, including the 2009-2014 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; creating a new Budget Control Level; adding a new project and revising project allocations for certain projects in the 2009-2014 CIP; making cash transfers between funds; and ratifying and confirming certain prior acts, all by a three-fourths vote of the City Council.

ORDINANCE NO. 123177

AN ORDINANCE adopting a budget, including a capital improvement program and position modifications, for the City of Seattle for 2010; creating a barrier fund; creating positions exempt from civil service; and finding that 2010 General Fund contributions to the Park and Recreation Fund exceed the requirements set forth under Article XI, Section 3 of the City Charter; all by a two-thirds vote of the City Council.

ORDINANCE NO. 123179

AN ORDINANCE authorizing the levy of regular property taxes by the City of Seattle for collection in 2010, representing an increase above the regular property taxes levied for collection in 2009; and ratifying and confirming certain prior acts.

ORDINANCE NO. 123180

AN ORDINANCE relating to the levy of property taxes; fixing the rates and/or amounts of taxes to be levied, and levying the same upon all taxable property, both real and personal, in the City of Seattle, to finance the departments and activities of City government and to provide for the general obligation bond interest and redemption require-

ments for the year beginning on the first day of January 2010; ratifying and confirming certain prior acts; and by a vote of a majority plus one of the Seattle City Council, finding a substantial need to use, and providing for the use of, 101% as the regular property tax limit factor.

ORDINANCE NO. 123185

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, December 10, 2009.

12/10(248065)