

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Motion to Authorize the City Manager to Execute an Agreement on the SEPA Nominal Lead Agency for a Regional Jail Facility
<b>DEPARTMENT:</b>	City Manager's Office
<b>PRESENTED BY:</b>	Julie Underwood, Assistant City Manager Scott MacColl, Intergovernmental Programs Manager Eric Bratton, CMO Management Analyst

At the October 20, 2008 study session, the Council reviewed and discussed an agreement to assess the environmental impacts of constructing a regional municipal jail on potential sites. The State Environmental Protection Act (SEPA) Nominal Lead Agency Agreement (Agreement) outlines the rights and obligations of those cities participating in the Environmental Impact Statement (EIS) study process. The staff report from the October 20, 2008 study session is attached for further reference.

Shoreline's contract to house misdemeanants in the King County Jail ends on December 31, 2012, as the County asserts that it will no longer have space for city misdemeanor prisoners. Shoreline must replace the functions that King County currently provides for Shoreline's misdemeanor jail population, which specifically includes 1) a booking facility; 2) medical, drug treatment and psychiatric services; and 3) long-term jail bed space. Shoreline is partnering with other North and East King County cities to develop a facility to meet these needs for the long term. The first step in that partnership is an agreement to assess potential sites for a regional municipal jail.

King County was the regional service provider of jail services for King County municipalities until 2002, when the County notified cities it would not accept city prisoners after 2012. King County cities planned together until 2007, when the cities split along regional lines (South County, and North and East County), and Shoreline began planning with the North and East County group. While it makes financial and operational sense for jail services to be coordinated and managed by a regional agency, such as a county, King County has explicitly expressed its desire to discontinue providing this service due to lack of bed space, with the exception of felony and unincorporated King County misdemeanor inmates.

Currently, Shoreline's jail model for meeting the misdemeanor population, which municipalities are responsible for, is a complex system of multiple jails and contracts. Shoreline's two main jail contracts, with Yakima County and King County, are due to expire in 2010 and 2012, respectively.

Options for meeting the City's responsibility for housing its misdemeanor population are limited as well as complicated. Rather than plan for dozens of small, inefficient jails,

or relying solely on contracting, cities have determined that a more effective model is to partner together for a long-term solution - building and operating a regional jail by 2013. The attached agreement establishing the roles and obligations of each City during an EIS study process on potential sites would provide the first step in implementing a long-term solution.

### **FISCAL IMPACT**

The total budgeted costs outlined in the attached Agreement are approximately \$3,300,000, and covers all expenses associated with conducting a comprehensive EIS on multiple sites. The Principal Cities will share the costs associated with the EIS process based on percentages determined by combining a city's population and its average daily jail population (ADP.)

Shoreline's share of the costs under the terms of the Agreement will not exceed \$229,000. That amount includes the cost of any appeals to the hearing examiner on the Final EIS. The funds to pay Shoreline's portion of the costs will come from the sale of property that was jointly held by cities in King County for a future jail site. That site was not suitable and the cities agreed to sell the property and jointly utilize the proceeds for jail planning. Shoreline's portion of the proceeds ranges from \$311,000 to \$386,000. It is anticipated that none of the costs identified in the Agreement will come due for Shoreline until after the sale has closed.

### **RECOMMENDATION**

Staff recommends that the Council authorize the City Manager to execute the attached SEPA Nominal Lead Agency Agreement to begin the EIS process on identified sites for a regional jail.

Approved By:                      City Manager  City Attorney \_\_\_\_

## **EXECUTIVE SUMMARY**

Shoreline is joining with other North and East King County cities to site, design, build and operate a 640 bed regional misdemeanor jail to open by January 1, 2013. The facility must open by January 1, 2013, as King County will no longer house misdemeanor jail inmates, which affects all cities in King County. Due to the large number of inmates involved, there is not sufficient jail capacity available to absorb the cities' misdemeanor jail population. As a result, King County cities must construct new jail capacity and have it operational by the beginning of 2013. King County cities chose to divide jail planning efforts between south county cities and north and east county cities. The 22 north and east King County cities, including Shoreline, formed the North East Cities Committee (NECC) and are jointly studying the feasibility of building a regional jail facility to meet their collective needs.

There are five cities leading the NECC jail planning effort to site, design, construct, fund, and operate a new regional jail. Those five cities are Bellevue, Kirkland, Redmond, Seattle, and Shoreline (the Principal Cities), and account for over 90% of the north and east cities' jail bed usage. The remaining 17 cities may join the effort in the future, but are not presently actively involved.

The Principal Cities are working under a very tight timeline to meet the four-year window to site, design, and construct a new jail. Once the Principal Cities have identified potential sites, the cities will need to move quickly to begin the EIS study and pre-design process on those identified sites. Attached is the Agreement, which establishes the roles and obligations during the EIS process for the Principal Cities.

## **ALTERNATIVES ANALYSIS**

### **Continuing Contracting**

Since 2002 the JAG cities have met their collective jail bed need primarily through major contracts with King and Yakima Counties (supplying approximately 770 beds), with other cities and counties also providing beds to individual JAG cities on a smaller scale. Of all the JAG cities, only Auburn, Issaquah, Kirkland and Renton have their own municipal jails, and have offered beds to their city neighbors on a space-available or space-guaranteed basis. Although city-to-city arrangements for jail space have worked well for general population housing, only 3-5% of the beds the JAG cities require can be supplied within the JAG consortium.

Contracting with large-scale providers such as King and Yakima Counties would seem to be a viable option for Shoreline. However, King County only plans to extend the contract with King County cities for an additional year, ending on December 31, 2013. Likewise, King County completed an assessment of its own jail bed needs and concludes that it will be unable to meet its own needs from 2015 forward. Contracting with King County for any portion of the 1,450 bed need will not be possible unless the County adds substantial capacity.

Yakima County is willing to continue providing guaranteed beds at higher negotiated rates. However, ongoing issues with this contract are largely a result of their limited availability of beds for female inmates and Yakima's inability to transport and house

inmates with serious medical or psychological conditions. In addition, due to their geographical distance, Yakima cannot serve as a booking site.

Aside from guaranteeing access to beds, including for special needs inmates, staff concludes that other important issues preclude consideration of continued contracting including:

- Inability to control cost and quality of service;
- Unpredictability of future costs;
- Uncertainty about continuing bed availability; and
- Lack of access to policy, management, and overall operational decision-making.

### **Building Our Own Jail**

Another possible alternative for Shoreline would be to build its own jail. This would provide the City with much greater control over its inmate population; jail operations and programming; and costs associated with operating a jail. However, building and operating a single city jail would be substantially more expensive than working with other cities on a regional jail. As the feasibility study showed, the cost savings associated with building and operating a larger jail compared to a smaller one are significant. One of the biggest reasons for the cost disparity has to do with staffing ratios. A large jail can operate with less staff per inmate than a smaller jail.

In addition, if Shoreline built its own jail, it would most likely still have to contract with another jail to house inmates needing medical or psychiatric care, which still puts Shoreline at the mercy of other jails. Shoreline also does not have any experience operating a jail. Operating its own jail would require significant staff increases just to deal with jail administration issues. In a regional jail, administrative costs would be spread among all participating cities.

### **Partnering on a Regional Jail**

Partnering with other cities to build a regional jail is the one option that addresses all of the City's needs in the most cost effective manner. From a purely financial and operational standpoint, coordinating and managing jail services on a regional basis makes the most sense. The economies of scale achieved in building one large regional jail compared to several smaller jails are significant. In addition, operating a regional jail also helps streamline the criminal justice process since many inmates have charges from multiple jurisdictions. Having one regional facility that can address many of those multiple charges can have significant cost savings by cutting down on transport between jurisdictions and it allows for a better tracking of inmates.

### **Recommended Option:**

Partnering on a regional jail will address all of Shoreline's needs when it comes to housing its misdemeanor population. The City would have guaranteed bed space; a local booking facility; and access to psychiatric and medical housing. Shoreline would also have a voice in the decision making process when it came to operational or governance issues.

While partnering with other cities on a regional jail can limit Shoreline's options to some extent when it comes to managing its misdemeanor population, the cost savings and housing guarantees associated with being involved in a regional jail make this the recommended option.

### **SEPA Nominal Lead Agency Agreement**

The Council has three options with regard to the Agreement:

- **Option 1 – Sign the Agreement**  
Council approves the Agreement and Shoreline becomes a full partner in the regional jail planning process with the North and East Cities. This agreement represents the first major step Council will take toward building and operating a regional jail facility.
- **Option 2 – Don't Sign the Agreement, Join Later**  
Council decides not to approve the Agreement and not be part of the regional jail planning process. Shoreline could potentially rejoin the regional planning process later, but it would have to pay any costs incurred up to that point. The City would not have a say in the siting process and the final siting decision under this option. This option risks having the regional partnership fail if Shoreline declines to participate at this juncture.
- **Option 3 – Don't Sign the Agreement, Contract for Future Bed Needs**  
Council decides not to be part of the regional jail planning process at all and just becomes a contract city with the regional jail once completed. However, if the Council decided the City should be a contract city instead of a participant in the regional jail governing structure, the City would not have a guaranteed number of beds in the new facility and its jail bed rates may be substantially higher than those cities that were part of the jail planning process. The City also would not be able to participate in making governance and operational decisions with regard to the jail.

### **RECOMMENDATION**

Staff recommends that the Council authorize the City Manager to execute the attached SEPA Nominal Lead Agency Agreement to begin the EIS process on identified sites for a regional jail.

### **ATTACHMENTS**

Attachment A: SEPA Nominal Lead Agency Agreement

Attachment B: Staff report from October 20, 2008 study session.

## SEPA NOMINAL LEAD AGENCY AGREEMENT

This Agreement is made initially among The City of Bellevue; The City of Kirkland; The City of Redmond; The City of Seattle; and The City of Shoreline (each of which is referred to as a "Principal City"). Other cities may become Parties by amendment as provided in this Agreement.

### **Recitals:**

The Principal Cities have determined that they will collectively study a new misdemeanor jail with a capacity of approximately 640 beds, which is estimated to be sufficient to serve their anticipated needs and the anticipated needs of the other Northeast Cities, listed on Exhibit A.

The Principal Cities believe that the reasonable alternatives for construction of a new jail may include sites in several different jurisdictions.

The Principal Cities have conducted a preliminary review and analysis of their respective needs and of the general feasibility of a regional jail serving the Northeast Cities compared to other options.

The Principal Cities desire to establish their respective roles and obligations, and to provide a mechanism for interlocal cooperation, with respect to environmental review of the Proposal (as defined below) under the Washington State Environmental Policy Act and its implementing regulations, and certain related activities.

### **Agreement**

In consideration of the mutual promises herein, it is mutually agreed as follows:

#### **1. Definitions.**

The following capitalized terms used in this Agreement have the meanings set forth in this Section:

Co-Lead City: Each Principal City except Seattle.

DEIS: Draft Environmental Impact Statement for the Proposal under SEPA.

FEIS: Final Environmental Impact Statement for the Proposal under SEPA.

Northeast Cities: All of the cities listed on Exhibit A to this Agreement, which is incorporated herein by this reference.

Participating City: Any Northeast City that is added to this Agreement by amendment, so long as it remains a Party.

Parties: As of any time, the "Parties" include all Principal Cities and any other Northeast Cities that then shall have become Participating Cities by amendment as set forth in this Agreement, except that "Parties" shall not include any Northeast Cities that then shall have withdrawn from this Agreement.

Principal Cities: The City of Bellevue; The City of Kirkland; The City of Redmond; The City of Seattle; and The City of Shoreline, in each case so long as it remains a Party.

Proposal: The reasonable alternatives for the actions necessary to establish a new jail with capacity to serve the Northeast Cities, within the range of alternatives identified by the Principal Cities for study in accordance with this Agreement.

SEPA: The Washington State Environmental Policy Act and its implementing regulations.

Site: A potential location for a regional jail to serve the Northeast Cities.

Working Day: A day that is not a Saturday, Sunday, or City of Seattle holiday.

## **2. Co-Lead Agencies.**

Each Principal City is a co-lead agency for the Proposal as permitted pursuant to WAC 197-11-944. Seattle is designated the nominal lead agency for the Proposal. Each Principal City shall have responsibility, in reliance on the work of consultants and experts retained by Seattle under this Agreement, for content of environmental documents. Seattle's "responsible official" shall have the duty to determine the adequacy of the FEIS under SEPA.

## **3. Designated Representatives; Committees; Proposal; Sites.**

A. Each Principal City has designated, below its signature on this Agreement, the name, title, address and electronic contact information for: (i) a staff representative who will serve as the primary contact person for purposes of this Agreement; and (ii) the official(s) authorized to approve matters under this Agreement for that city, subject to any limitations on that authority imposed by the official's city. A Principal City may designate, by written notice to all Parties, an alternate staff representative or official to act instead of the designated person if that person is unavailable. A Principal City may designate the same person for both of the purposes identified in this subsection. A Principal City may change the designated person for either of these purposes by written notice to all Parties.

B. The Proposal to be analyzed in a Draft Environmental Impact Statement ("DEIS") shall include alternative Sites for constructing a jail with up to 640 beds. The Principal Cities shall cooperate to identify a reasonable number and range of reasonable alternatives. The list of alternatives to be analyzed shall include those unanimously agreed to by the Principal Cities.

C. After publication of the DEIS and the opportunity for public comment, the Parties shall consult as to identification of a preferred alternative and as to the alternatives to be included in the FEIS. Consensus shall be the preferred method to select a preferred alternative. Designation of a preferred alternative shall require approval of at least three Principal Cities, which must include (i) Seattle, and (ii) any Principal City where the preferred alternative would be located. If no proposed preferred alternative obtains such approval, the FEIS may be issued without a preferred alternative.

**4. Seattle Responsibilities.**

A. Seattle shall designate a single staff person who will serve as the primary point of contact between Seattle and the other cities. Seattle will also designate a back-up staff person who will serve as the point of contact if primary lead staff is unavailable.

B. As the nominal lead agency, Seattle shall be responsible for the following SEPA activities with respect to the Proposal:

- (i) providing all notices required by SEPA and Seattle ordinances and regulations, and any additional notice requirements under ordinances and regulations of the Co-Lead Cities that are identified by Co-Lead Cities by written notice to Seattle;
- (ii) holding public meetings required by SEPA;
- (iii) providing required opportunities to comment on SEPA documents;
- (iv) causing the preparation of environmental documents required by SEPA;
- (v) making all filings and publications required by SEPA;
- (vi) defending any administrative and/or court challenge to the adequacy of the environmental documents, subject to the terms of this Agreement; and
- (vii) identifying the actions, as defined in SEPA, that would be necessary to establish a jail at each Site, except for actions under the planning documents, ordinances or regulations of local jurisdictions other than Seattle.

C. Seattle shall contract with consultants, architects, and others for the preparation of the DEIS, FEIS and related technical reports and for the other work contemplated by the estimated budget attached hereto as Exhibit B. The Parties acknowledge that Seattle, in accordance with its authorized contracting procedures, has entered into a contract with Blumen Consulting dated 6/18/08, and a contract with Keller Group dated 4/9/08, copies of which have been made available to the Parties, and that the costs of these contracts, as they may be amended, are included in the costs allocable under this Agreement. Seattle shall solicit, consistent with State law, the services of an architectural firm for predesign work on alternative Sites to be studied under this Agreement, and after approval of the selection under Section 6 of this Agreement shall contract with a selected firm for the performance of such work consistent with the determinations as to the scope and coverage of the DEIS and FEIS pursuant to Section 6.

D. Seattle further agrees, with respect to circulation of drafts of SEPA documents, to:

- (i) provide each Co-Lead City a draft of the scoping notice 15 working days prior to issuance;
  - (ii) issue the scoping notice only with the approval required in Section 6;
  - (iii) provide the Parties with a draft of the proposed DEIS and supporting technical memoranda and discipline reports prior to issuance of the DEIS;
  - (iv) coordinate any comments or requested changes to the proposed DEIS from the Parties that are received within 15 Working Days after the proposed DEIS was sent to the Parties, and bring the comments and requested changes to the Co-Lead Cities for discussion and recommendation;
  - (iv) issue the DEIS only after approval as required under Section 6, except that the published DEIS may include corrections and changes not so approved and not previously provided to the Parties if they do not fundamentally alter conclusions in the DEIS and do not materially change information with respect to any Site;
  - (v) provide the Parties with copies of comments received on the DEIS;
  - (vi) provide the Parties a draft of the proposed FEIS, including its technical memoranda and discipline reports and response to DEIS comments;
  - (vii) coordinate any comments or requested changes to the proposed FEIS from the Parties that are received within 10 Working Days after the proposed FEIS was sent to the Parties, and bring the comments and requested changes to the Co-Lead Cities for discussion and recommendation;
- and
- (viii) issue the FEIS, and any supplement or addendum to the FEIS, only after approval under Section 6, provided that the published FEIS and any supplement or addendum may include corrections and changes not so approved and not previously provided to the Parties if they do not fundamentally alter conclusions in the FEIS and do not materially change information with respect to any Site.

E. Seattle shall provide the Parties with an estimated schedule consistent with the time periods in subsection D of this Section.

F. Any other provision notwithstanding, if the Principal Cities determine that the FEIS shall be part of a phased review, then Seattle shall not have any obligations under this Agreement for any phase after the FEIS.

## **5. Co-Lead City Responsibilities.**

Each Co-Lead City agrees that it shall:

A. Review the draft scoping notice and provide comments or notify Seattle of its approval within 5 Working Days of receipt of the draft;

B. Review preliminary draft discipline reports and technical memoranda and provide comments to Seattle within 15 Working Days;

C. Review preliminary drafts of a DEIS or portions thereof, and any supplement or addendum thereto, and provide comments or approval within 15 Working Days;

D. Review drafts of a FEIS or portions thereof, and any supplement or addendum thereto, and provide comments or approval within 10 Working Days;

E. Promptly provide access to data and studies reasonably available to the Co-Lead City with respect to any Site within its boundaries, and promptly provide the cooperation of experts on the staff of relevant city departments, to Seattle and to consultants; and

F. Identify, and consult with Seattle and consultants with respect to, (i) all actions, within the meaning of SEPA, that would be required of the Co-Lead City for purposes of participating in a regional jail project or for purposes of permitting the construction of a jail on any Site within that city that is included in the DEIS, and (ii) all notice requirements under the ordinances and regulations of that city.

Any other provision notwithstanding, if the Principal Cities determine that the FEIS shall be part of a phased review, then the Co-lead Cities shall not have any obligations under this Agreement for any phase after the FEIS.

## **6. Approvals.**

A. Except as otherwise stated in this Section, the approval of at least three Principal Cities, one of which must be Seattle, is required and is sufficient for any of the following:

- (i) issuance of the determination of significance and scoping notice;
- (ii) determination of whether and to what extent SEPA review for the Proposal will be phased, and of the types of impacts to be analyzed in detail in the DEIS and FEIS;
- (iii) issuance of the DEIS, and any supplement or addendum to the DEIS;
- (iv) issuance of the FEIS, and any supplement or addendum to the FEIS;
- (v) any decision with respect to the settlement of any appeal or with respect to action to be taken upon any adverse decision or remand resulting from any appeal;
- (vi) amendments adding Participating Cities as Parties to the Agreement; and
- (vii) selection of an architectural firm for predesign work.

B. If at any time there shall be three or fewer Principal Cities that remain Parties to this Agreement, the approval of two Principal Cities, one of which must be Seattle, shall be necessary and sufficient for any of the actions listed in subsection A of this Section.

C. Approval for designation of a preferred alternative in the FEIS is governed by subsection 3C of this Agreement.

## 7. Budget; Costs and Reimbursements.

A. Each Party agrees to contribute to the costs incurred by Seattle for SEPA analysis, review and compliance for the Proposal, and the related predesign and planning work, including the costs for consultants, architects and others as listed in the estimated budget attached as Exhibit B, and including the costs of appeals to the extent provided in Section 8 of this Agreement. The fractional share the total costs allocated to each Party shall be the average of (i) the ratio of that Party's city population to the total city populations of all Parties (as determined by the estimates available from the State Office of Financial Management), and (ii) the ratio of that Party's average daily city misdemeanor jail population in 2005 through 2007 to the average daily city misdemeanor jail population in 2005 through 2007 of all Parties. City population estimates for April 2008 shall be used. The Parties' percentage shares and estimated costs are shown in the following table, subject to modification under subsection B of this Section:

	Cost share based on Combined City Pop. & Jail ADP	
Cities	%	\$
Bellevue	11.9%	\$395,436
Kirkland	5.8%	\$192,687
Redmond	5.9%	\$196,284
Seattle	69.4%	\$2,299,827
Shoreline	6.9%	\$229,586
Total <sup>1</sup>	100%	\$3,313,821

B. If any Participating City is added to this Agreement by amendment, then Seattle shall prepare and distribute to the Parties a new schedule of percentages, with the Participating City added and the percentages revised consistent with subsection A of this Section. Each Participating City shall be obligated for its share of cumulative costs, including those incurred before it becomes a Party, unless otherwise expressly agreed by all Parties at the time such Participating City is added to the Agreement.

C. The Parties agree to the initial budget attached as Exhibit B to this Agreement and incorporated by this reference. Seattle may make reallocations among budget line items in Exhibit B and may allocate the contingency line item to any other line items, without approval from other Parties, but any increase in the total budget shall require unanimous approval of the Principal Cities. The attached budget is based on the assumption that sufficient work would be done to identify and analyze any probable significant adverse environmental impacts of all of the agency "actions," within the meaning of SEPA, that would likely be required in order to construct a regional jail at any one of multiple Sites, so that the FEIS would not contemplate a further phase of review after final selection of a Site. If, instead, the Principal Cities approve a

<sup>1</sup> (Percentages do not foot due to rounding.)

phased review with a more limited scope of the FEIS, it is expected that actual costs allocated under this Agreement in some line items would be lower, but this Agreement would not cover any later phase of SEPA review or its costs.

D. Within 30 days after the end of each calendar quarter beginning with the first quarter of 2009, Seattle shall provide to each other Party a reasonably detailed invoice with an accounting of the costs that Seattle has incurred for the purposes set forth in this Agreement within the last quarter and cumulatively, together with any revised budget and a calculation of the payments needed from other Parties to allocate the total costs incurred for such purposes according to this Section. The first such invoice shall include costs incurred in 2008. Each other Party owing money according to that calculation shall make payment to Seattle no later than 45 days after receiving the invoice.

E. Within 90 days after termination of this Agreement, Seattle shall distribute a final accounting to the Parties. Each other Party owing money according to that calculation shall make payment to Seattle no later than 45 days after receipt of the final accounting, and to the extent any Party is entitled to reimbursement for any overpayment, Seattle shall make payment to the Party no later than 60 days after the date of the final accounting, provided that Seattle shall not be required to advance funds owed by another Party.

## **8. Appeals.**

A. Unless otherwise provided by applicable law then in effect, any timely appeals of the adequacy of the FEIS and compliance with applicable SEPA procedural requirements shall be heard by the Seattle Hearing Examiner pursuant to Seattle Municipal Code Section 25.05.680. Seattle shall have sole responsibility to defend the adequacy of the FEIS, as to the actions covered by the FEIS, in any administrative appeal to the Seattle Hearing Examiner, or if for any reason the Hearing Examiner does not have jurisdiction of an initial appeal, then in any initial appeal before a court or other administrative tribunal with jurisdiction, to the extent such appeal relates to the adequacy of the FEIS or compliance with the applicable SEPA procedural requirements. The costs of such defense, including without limitation costs of in-house attorneys, outside counsel if deemed necessary by Seattle, staff support and costs of experts, shall be considered costs allocable hereunder. Any further appeal of a decision by a hearing examiner, other administrative body or trial court on the adequacy of the FEIS is outside the scope of this Agreement. Subject to the execution of a satisfactory common interests and confidentiality agreement, Seattle shall keep the Co-lead Cities reasonably informed of the status of the appeal and shall consult with them regarding any major decisions.

B. Any administrative appeal or court challenge to a substantive action, including without limitation a change in development regulations or project permit decision, whether or not joined with a challenge to be defended under subsection A and whether or not involving issues of SEPA compliance or exercise of SEPA authority, is outside the scope of this Agreement.

**9. Effectiveness; Additional Parties; Termination; Withdrawal of a Party.**

A. This Agreement will become effective upon signing and delivery of the Agreement by all Principal Cities, as set forth in Section 13 of this Agreement.

B. Any Northeast City may become a Participating City under this Agreement by amendment approved under Section 6, without need for action of the legislative bodies of the existing Parties. Participating Cities will not have authority over decisions under this Agreement, but will have the same rights and responsibilities for review and comment on draft documents as Co-Lead Cities.

C. This Agreement shall remain in effect until the FEIS, and any supplements or addenda to the FEIS that may be required as a result of any proceeding before the Seattle Hearing Examiner, have been issued, and either the time for any appeal of Seattle's decision on the adequacy of the FEIS shall have expired or a final decision on an appeal of that determination, in which Seattle has responsibility for defense under Section 8A of this Agreement, shall have been issued by the Hearing Examiner or by a court or other administrative tribunal with jurisdiction to hear an initial appeal on the adequacy of the FEIS. The provisions of Section 7 of this Agreement for final accounting and reimbursements shall remain in effect until fully performed.

D. Any Party, may, upon thirty (30) days written notice to the other Parties, withdraw from this Agreement, without cause.

E. If a Co-Lead City or Participating City withdraws from this Agreement, then it shall remain in effect among the remaining Parties.

F. The withdrawing Party, as of the date of termination, shall not have any rights of a Party, or of a Principal City or Co-lead Agency, under this Agreement, and no consent of that Party shall be required for any purpose under this Agreement. The withdrawing Party is released from any obligation to perform its obligations pursuant to the Agreement, except as set forth in this Section 9.

G. Any Party that withdraws from this Agreement shall remain obligated for its share of costs allocable under this Agreement that are incurred through the date of termination of this Agreement.

H. If a Co-Lead City withdraws from the Agreement, any Site in that city shall remain among the alternatives for the Proposal unless and until the remaining Parties unanimously agree otherwise, and the withdrawing Party shall remain obligated to cooperate in providing information required for environmental review with regard to that Site.

I. If Seattle withdraws from this Agreement, then this Agreement shall terminate on the effective date of withdrawal.

**10. Remedies.**

Except as provided in Sections 7 and 8 above, this Agreement shall not result in any monetary liability, in damages or otherwise, from any Party to another. No Party shall be liable for any damages to, or costs incurred by, other Parties resulting from any actual or alleged error, misstatement or omission in any SEPA document or related to any SEPA process, or any ruling regarding failure to comply with SEPA, whether or not the result of the negligence of a Party. Except for monetary obligations under Sections 7 and 8 of this Agreement, any suit to enforce the terms of this Agreement or any obligation under this Agreement shall be limited to equitable remedies not involving payment of money.

**11. Dispute Resolution.**

A. Except for matters resolved under Section 6, in the event of a dispute between the Parties regarding this Agreement, the Parties shall attempt to resolve the dispute informally.

B. If the dispute involves a claimed breach of this Agreement and the Parties are not able to resolve the dispute informally, then the Party may bring suit against the other Party in King County Superior Court.

C. As an alternative to the above, the Parties may agree in writing to mediation, or some other alternative dispute resolution process.

**12. Notices.**

The Parties' addresses for notices under this Agreement shall be the physical and electronic addresses of the primary contacts as set forth below the signature of each Party on this Agreement or on the amendment adding that Party, as the case may be, in each case until a Party shall have provided written notice of substitute primary contact information to the other Parties hereunder.

Notice and copies of documents may be provided by email, and if so provided shall be effective on the day received if received on a Working Day by 5:00 PM Pacific time, and if later then effective on the next Working Day. If provided by U.S. mail, any notice or other communication shall be effective on the second Working Day after deposit in the U.S. mail, postage prepaid, addressed in accordance with this Section.

**13. Counterparts.**

This Agreement may be executed in counterparts, each of which shall constitute an original and which together shall constitute a single agreement, and shall be binding and effective when each Principal City has signed at least one counterpart that has been delivered to the Seattle Department of Fleets and Facilities, regardless whether all Principal Cities shall have signed the same counterpart. Any amendment adding a Participating City may be executed in counterparts, each of which shall constitute an original and which together shall constitute a single

amendment, and shall be binding and effective when each Principal City and the Participating City being added each has signed at least one counterpart that has been delivered to the Seattle Department of Fleets and Facilities, regardless whether all of them shall have signed the same counterpart.

**14. Severability.**

If any provision of this Agreement shall be held by a court to be invalid or unenforceable, or if this Agreement or a provision hereof shall be held by a court not to be binding or enforceable against a particular Party, then the remaining provisions, or the provisions hereof as applied to all other Parties, as the case may be, shall remain in full force and effect. To the extent that the obligation of any Party to contribute to costs as described herein shall be finally determined by a court to be invalid or unenforceable, that Party's share of costs shall be reallocated among the remaining Parties in proportion to their respective shares under this Agreement.

**15. Entire Agreement, Modification.**

This Agreement is the entire agreement of the Parties with respect to SEPA matters involving the Proposal. This Agreement does not supersede, and unless expressly so agreed in writing shall not be affected by, any other agreement among any of the Parties regarding any aspects of the Proposal other than SEPA matters. This Agreement may be modified only by written agreement of all Parties, but any written agreement affecting only the rights and obligations as among two or more Principal Cities shall be valid without agreement of any other Parties.

**16. No Partnership.**

This Agreement does not establish any partnership or joint venture, nor authorize any Party to incur a liability or obligation binding on another Party or Parties.

**17. Miscellaneous.**

A. This Agreement is for the benefit only of the Parties, and shall not give rise to any claim or remedy for any other person.

B. Nothing in this Agreement shall delegate, diminish or modify the statutory or regulatory authority of the Parties.

C. Time is of the essence of the terms of this Agreement.

**[signature pages follow]**

THE CITY OF BELLEVUE, a  
Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p><b>Primary contact (required):</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p><b>Alternate contact (optional):</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____ fax: _____</p> <p>email: _____</p>
<p><b>Authorized official (required):</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p><b>Alternate authorized official (optional):</b></p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____ fax: _____</p> <p>email: _____</p>

THE CITY OF KIRKLAND, a  
Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p>Primary contact (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate contact (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>
<p>Authorized official (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate authorized official (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>

THE CITY OF REDMOND, a  
Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p>Primary contact (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate contact (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____ fax: _____</p> <p>email: _____</p>
<p>Authorized official (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate authorized official (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____ fax: _____</p> <p>email: _____</p>

THE CITY OF SEATTLE, a  
Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p>Primary contact (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate contact (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>
<p>Authorized official (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate authorized official (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>

THE CITY OF SHORELINE, a  
Washington municipal corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_, 2008

Name: \_\_\_\_\_

Title: \_\_\_\_\_

<p>Primary contact (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate contact (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>
<p>Authorized official (required):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>	<p>Alternate authorized official (optional):</p> <p>Name: _____</p> <p>Title: _____</p> <p>Address: _____</p> <p>_____</p> <p>phone: _____</p> <p>fax: _____</p> <p>email: _____</p>

## Exhibit A

The Northeast Cities for purposes of this Agreement are:

- Beaux Arts
- Bellevue
- Bothell
- Carnation
- Clyde Hill
- Duvall
- Hunts Point
- Issaquah
- Kenmore
- Kirkland
- Lake Forest Park
- Medina
- Mercer Island
- Newcastle
- North Bend
- Redmond
- Sammamish
- Seattle
- Shoreline
- Skykomish
- Snoqualmie
- Woodinville
- Yarrow Point

## Exhibit B

### Estimated Budget

<b>Work</b>	<b>Total</b>
Environmental Site Assessment (Phase 1 & II)	\$120,000
Geotechnical Site Consultation (Phase I & II)	\$275,500
Wetlands Survey	\$20,000
SEPA/EIS	\$375,000
Traffic Study	\$125,000
Predesign (Architect - for EIS analysis)	\$1,000,000
Architectural (spatial) Programming	\$250,000
Phase II of the NECC Study (Jail Program Plan)	\$114,792
Communications & Public Outreach	\$350,000
Jail Operations Expert	\$75,000
Capital Project Manager	\$116,000
Staff Coordinator	\$22,000
Legal Review	\$200,000
CONTINGENCY (@ 10% of consultant costs)	\$270,529
<b>Total Costs under the EIS ILA:</b>	<b>\$3,313,821</b>

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**Council Meeting Date:** October 20, 2008

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**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Motion to Authorize the City Manager to Execute an Agreement on the SEPA Nominal Lead Agency for a Regional Jail Facility
<b>DEPARTMENT:</b>	City Manager's Office
<b>PRESENTED BY:</b>	Julie Underwood, Assistant City Manager Scott MacColl, Intergovernmental Programs Manager Eric Bratton, CMO Management Analyst

**PROBLEM/ISSUE STATEMENT:**

Shoreline's contract to house misdemeanants in the King County Jail ends on December 31, 2012, as the County asserts that it will no longer have space for city misdemeanor prisoners. Shoreline must replace the functions that King County currently provides for their misdemeanor jail population, which specifically includes 1) a booking facility; 2) medical, drug treatment and psychiatric services; and 3) long-term jail bed space. Shoreline is partnering with other North and East King County cities to develop a facility to meet these needs for the long term. The first step in that partnership is an agreement to assess potential sites for a regional municipal jail.

King County was the regional service provider of jail services for King County municipalities until 2002, when the County notified cities it would not accept city prisoners after 2012. While it makes financial and operational sense for jail services to be coordinated and managed by a regional agency, such as a county, King County has explicitly expressed its desire to discontinue providing this service, with the exception of felony and unincorporated King County misdemeanor inmates.

Currently, Shoreline's jail model for meeting the misdemeanor population, which municipalities are responsible for, is a complex system of multiple jails and contracts. Shoreline's two main jail contracts, with Yakima County and King County, are due to expire in 2010 and 2012, respectively.

Options for meeting the City's responsibility for housing its misdemeanor population are limited as well as complicated. Rather than plan for dozens of small, inefficient jails, or relying solely on contracting, cities have determined that a more effective model is to partner together for a long-term solution - building and operating a regional jail by 2013. The attached agreement establishing the roles and obligations of each City during an Environmental Impact Statement (EIS) study process on potential sites would provide the first step in implementing a long-term solution.

## **FINANCIAL IMPACT**

The total budgeted costs outlined in the attached Agreement are approximately \$3,300,000, and covers all expenses associated with conducting a comprehensive EIS on multiple sites. The Principal Cities will share the costs associated with the EIS process based on percentages determined by combining a city's population and its average daily jail population (ADP.)

Shoreline's share of the costs under the terms of the Agreement will not exceed \$229,000. That amount includes the cost of any appeals to the hearing examiner on the Final EIS. The funds to pay Shoreline's portion of the costs will come from the sale of property that was jointly held by cities in King County for a future jail site. That site was not suitable and the cities agreed to sell the property and jointly utilize the proceeds for jail planning. Shoreline's portion of the proceeds ranges from \$311,000 to \$386,000. It is anticipated that none of the costs identified in the Agreement will come due for Shoreline until after the sale has closed.

## **RECOMMENDATION**

No action is required at this time. However, staff recommends that the Council authorize the City Manager to execute an agreement for the SEPA nominal lead agency for a regional jail facility. Action is scheduled for the October 27 business meeting.

Approved By:      City Manager  City Attorney \_\_\_\_\_

## **EXECUTIVE SUMMARY**

Shoreline is joining with other North and East King County cities to site, design, build and operate a 640 bed regional misdemeanor jail to open by January 1, 2013. The facility must open by January 1, 2013, as King County will no longer house misdemeanor jail inmates, which affects all cities in King County. Due to the large number of inmates involved, there is not sufficient jail capacity available to absorb the cities' misdemeanor jail population. As a result, King County cities must construct new jail capacity and have it operational by the beginning of 2013. King County cities chose to divide jail planning efforts between south county cities and north and east county cities. The 22 north and east King County cities, including Shoreline, formed the North East Cities Committee (NECC) and are jointly studying the feasibility of building a regional jail facility to meet their collective needs.

There are five cities leading the NECC jail planning effort to site, design, construct, fund, and operate a new regional jail. Those five cities are Bellevue, Kirkland, Redmond, Seattle, and Shoreline (the Principal Cities), and account for over 90% of the north and east cities' jail bed usage. The remaining 17 cities may join the effort in the future, but are not actively involved presently.

The Principal Cities are working under a very tight timeline to meet the four-year window to site, design, and construct a new jail. Once the Principal Cities have identified potential sites, the cities will need to move quickly to begin the Environmental impact Statement (EIS) study and pre-design process on those identified sites. Attached is the State Environmental Policy Act (SEPA) Nominal Lead Agency Agreement (Agreement), which establishes the roles and obligations during the EIS process for the Principal Cities.

### **FINANCIAL IMPACT:**

The total budgeted costs outlined in the attached Agreement are approximately \$3,300,000. Under the terms of the Agreement, the total costs are not to exceed the budgeted amount. The budget covers all expenses associated with conducting a comprehensive EIS on multiple sites. The Principal Cities will share the costs associated with the EIS process based on percentages determined by combining a city's population and its average daily jail population (ADP.) Other north and east cities wishing to participate in the EIS process may do so by paying their fair share of costs; however, those cities will not have any voting rights under the terms of the Agreement. Any city that does not enter into the Agreement, but agrees to be a part of the jail planning process later will pay its share of the EIS costs retroactively.

Shoreline's share of the costs under the terms of the Agreement will not exceed \$229,000. That amount includes the cost of any appeals to the hearing examiner on the Final EIS. The funds to pay Shoreline's portion of the costs will come from property sale proceeds, which will be explained in more detail later. Shoreline's portion of the proceeds ranges from \$311,000 to \$386,000. It is anticipated that none of the costs identified in the Agreement will come due for Shoreline until after the sale has closed.

## BACKGROUND

### REGIONAL PARTNERSHIPS:

Following the newly negotiated contract with King County in 2003, a group of 37 King County cities, including Shoreline, negotiated an interlocal agreement with each other to coordinate jail services and to plan for long-term jail capacity and facilities. As a result of this interlocal agreement, in 2005 the consortium of cities initiated a long-range jail planning process. In order to oversee contract administration, coordination, and the progression of the strategic planning process, the city consortium established the following groups:

- Jail Oversight Assembly (JOA): Also commonly referred to as “the Assembly” or the “Jail Assembly,” JOA is made up of one elected representative from each of the 37 cities that signed a joint agreement in 2002 to collaborate on solutions to the cities’ jail bed access. The two cities that chose not to join the collaborative effort are Kent and Enumclaw.
- Jail Administration Group (JAG): JAG was formed to represent the 37 cities; the official members of the JAG are policy-level and law enforcement leadership representatives of the largest users of the King County jail, plus three members appointed by the Suburban Cities Association (SCA). Julie Underwood, Assistant City Manager, is one of three alternates for the SCA.
- Jail Task Force (JTF): The Jail Task Force members were appointed by both the Assembly (the elected officials) and the JAG (policy/law enforcement representatives) and their charge was to develop a region-wide jail bed solution for all JAG cities. Members came from 11 of the JAG cities and included:

Auburn	Federal Way	Renton
Bellevue	Issaquah	Seattle
Burien	Kirkland	Shoreline
Des Moines	Redmond	

The JTF completed its work at the end of 2007 and the group was sunset.

- North East Cities Committee (NECC): The NECC is the newest of these groups and the members include north and east King County cities with the greatest jail need (Seattle, Bellevue, Kirkland, Redmond, and Shoreline). While this working group primarily consists of staff from these cities, from time to time, elected officials (which are represented on the Assembly) are brought in for their consultation. Councilmember Ron Hansen serves as our representative.
- The NECC is in the process of conducting a two-phased study:
  - Phase 1: Feasibility analysis comparing the construction and operation of a 200 bed, 440 bed, and 640 bed misdemeanor jail facility.
  - Phase 2: Validation of forecasted ADP, development of detailed space and operational requirements, refined capital and operational cost estimates, and site analysis and recommendations.

## CURRENT JAIL BED NEED:

There are roughly 1,000 jail beds available for King County cities through various contracts and municipal jails:

<u>Agency</u>	<u>No. of Jail Beds Available to the Cities</u>
King County	330
Yakima contract	440
Issaquah municipal	62
Renton municipal	50
Auburn municipal	51
Kirkland municipal	12
Other contract beds	55
Total	1,000

Approximately a third (1/3) of the jail beds are located in King County jails, which are the downtown correctional facility and the Kent Regional Justice Center, and nearly half (1/2) of the jail beds are in Yakima County. Other jails are used both by the cities that operate them and by other cities either on a "reserved bed" contract, or on an as-needed basis. For all the JAG cities, Seattle is the biggest bed user, needing approximately a third (1/3) of the total beds, followed by Auburn.

The chart below provides Shoreline's average daily population (ADP) from 2004-2007:

<b>City of Shoreline Jail Population from 2004-2007</b>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Average Daily Population (ADP)</b>	<b>20.6</b>	<b>31.3</b>	<b>37.7</b>	<b>27.7</b>

### Who Goes to Jail?

A police officer will arrest an individual for four basic reasons: 1) in order to protect the community or an individual (e.g. domestic violence); 2) to protect the offender; 3) if an individual has a history of repeated offenses; and 4) to serve as a deterrent. If defendants are not released on their own recognizance, they must stay in jail at least until their first appearance, which, by law, must occur within 48 hours of being booked. Bail is set at a defendant's first appearance; if a defendant can make bail, he is released. If he cannot make bail, he must remain in jail until his trial or until he is released by the court. Another reason for arrests is "failure to appear" warrants, which are obtained for suspects who are released from jail and then fail to report to court or a designated agency for alternative sentencing programs.

### How is Jail Time Imposed?

Judges impose jail time when a misdemeanor shows a previous failure to comply; in order to meet mandatory sentencing provisions such as DUI or certain Driving While License is Suspended (DWLS) offenses; if a defendant has multiple offenses; as a

deterrent to future offenses; and to protect the community. Nevertheless, the most that a misdemeanor can be sentenced is 365 days.

### **CONTRACTING JAIL BEDS:**

By January 1, 2013, Shoreline, along with all other King County cities, will be unable to utilize King County jail facilities to house its inmates. As a result, King County cities are studying the feasibility of building and operating new jails to meet their collective needs. On June 23 and July 21 of this year, staff presented regional jail planning updates to Council regarding the initial results from the first phase of the jail feasibility study conducted on behalf of the north and east King County cities.

It cannot be stressed enough. King County cities are facing the difficult challenge of providing guaranteed jail bed space for our cities in the near future. Currently, Shoreline's jail model is a complex system of county and municipal jails involving multiple contracts. Shoreline currently contracts with King County, Yakima County, and the City of Issaquah to house its inmates. The following is a breakdown of the services included in those contracts:

- **King County Contract**

The City's current contract with King County expires on December 31, 2012. King County and King County cities are currently negotiating a two-year extension of that contract through 2014. However, it appears that the County will only be able to provide sufficient guaranteed bed space in 2013. Any contract extension with King County will include substantially higher rates than the City currently pays and will most likely require those higher rates to take effect before 2013. Currently, the City relies on King County for booking services and for housing inmates with medical and psychiatric needs. King County is the only facility that can house inmates with significant medical or psychiatric needs.

- **Yakima Contract**

Shoreline's contract with Yakima County is set to expire at the end of 2010. Yakima County and King County cities have been negotiating a new contract to run through 2014. However, Yakima County does not provide services for inmates with significant medical or psychiatric needs and it is not feasible to use Yakima County for Shoreline's booking needs due to the geographical distance between the two. The new contract will likely be before the City Council within the next six months.

- **Issaquah Agreement**

Shoreline has an ongoing agreement with Issaquah to act as Shoreline's primary booking facility and to be the transfer point for Shoreline inmates traveling to and from Yakima. Issaquah does not accept Shoreline inmates with psychiatric or medical needs and it has limited space for female inmates.

King County cities must address the imperative need for short-term housing of its misdemeanor populations and identify a long-term solution with guaranteed beds. The Yakima and King County contract extensions present a probable solution for the short-

term need. The north and east cities, through the NECC, have entered into a cooperative regional jail planning effort to identify a long-term solution.

#### **FUTURE (20-YEAR) JAIL BED NEED:**

In 2006 the JAG retained a consulting firm, Ricci Greene Associates, to complete the following:

- A needs assessment to establish future misdemeanor bed space capacity requirements. The study included an analysis of misdemeanor population characteristics and growth trends, and also assessed system practices impacting jail use, including alternatives to incarceration.
- Several strategic options for meeting future bed space requirements, which were generated through workshops with the JAG and based on identified goals, planning assumptions, and criteria.

The December 2006 report estimated that that all JAG cities will need approximately 1,175 jail beds by 2011 and 1,450 jail beds by 2026. Programs that provide alternatives to incarceration, such as electronic home detention, that reduce jail bed need have already been factored into the projected bed need (alternatives reduce the need by about 10%).

The chart below provides Shoreline's ADP projections from 2011 to 2026, in five-year increments:

City of Shoreline Jail Population Projections from 2011-2026				
	2011	2016	2021	2026
Average Daily Population (ADP)	41	44	46	49

#### **Use of Alternatives**

Cities, including Shoreline, use a variety of successful alternative programs, including electronic home monitoring, day reporting, and treatment for substance abuse, to help manage their jail populations. The success of alternative programs is largely dependant on an individual's willingness and ability to comply. Regardless, no matter how many alternative programs a city utilizes, it will still need to secure jail beds.

#### **Phase 1: Feasibility Study**

The NECC commissioned a feasibility study for a regional jail facility. After reviewing the preliminary results of the feasibility study, the north and east cities reached consensus on the need to build and operate one 640-bed regional jail facility, instead of two smaller facilities, due to the significant cost savings. However, the cities must follow a very aggressive schedule in order to site, design, and construct a 640-bed jail facility by 2013.

In April 2008, the NECC hired Carter Goble Lee to conduct the feasibility analysis. Phase 1 of that study examined the spatial/acre requirements for a 200 bed facility (for north and east cities excluding Seattle), a 440 bed facility (just for Seattle), and 640 bed

facility (for all north and east cities including Seattle). It is also looked at construction and operational cost estimates for the three different sized facilities and the different per diem charges associated with each facility.

According to the results of Phase 1, operating a 200-bed facility is by far the most expensive option, whereas operating a 640-bed facility is the least expensive due to economies of scale. Looking at the staffing ratio, a 200-bed facility has an inmate to staff ratio of 1.56, whereas the 640-bed facility has a ratio of 3.43 or 1:3 (Exhibit A). It is the staffing requirements (based on eight-hour shifts) that are the basis for operational cost estimates. One would expect some of these areas may be contracted out (food services, medical, facility maintenance, etc.).

#### Exhibit A

##### Staffing Comparison a 200, 440, and 640-Bed Regional Jail Facility

Category	200-Beds	% of Total	440-Beds	% of Total	640-beds	% of Total
<b>STAFFING</b>	<b># of Staff</b>	<b>Inmate/Staff</b>	<b># of Staff</b>	<b>Inmate/Staff</b>	<b># of Staff</b>	<b>Inmate/Staff</b>
Administrative	13.0	15.4	13.0	33.8	15.0	42.7
Security Administration/Intake & Release	53.5	3.7	60.7	7.3	66.9	9.8
Program Services	3.0	66.7	3.0	146.7	5.0	128.0
Inmate Services	8.0	25.1	8.0	55.3	8.0	80.4
Medical Services	8.8	22.7	14.1	31.3	16.8	38.1
Food Services	5.4	37.4	5.4	82.2	7.5	85.8
Maintenance	3.7	53.5	3.7	117.6	7.2	88.6
<b>Subtotal Support Services</b>	<b>95.3</b>	<b>2.10</b>	<b>107.8</b>	<b>4.08</b>	<b>126.3</b>	<b>5.07</b>
Special Housing (Spec. Mngt., Women, Obser)	13.9	14.4	13.9	31.6	13.9	46.0
Pretrial Housing	12.2	16.4	27.0	16.3	29.6	21.8
Sentenced Housing	7.0	28.7	7.0	63.2	16.5	38.7
<b>Subtotal Housing</b>	<b>33.1</b>	<b>6.05</b>	<b>47.9</b>	<b>9.20</b>	<b>60.0</b>	<b>10.7</b>
<b>Total Staff and Inmates/Staff</b>	<b>128.4</b>	<b>1.56</b>	<b>155.6</b>	<b>2.83</b>	<b>186.4</b>	<b>3.43</b>

Source: Carter Goble Lee, September 23, 2008.

The affect of the staffing disparity can be seen in the operating costs. A 200-bed facility has an estimated per diem cost of \$311 (Exhibit B), assuming the national standard of 85% occupancy; effectively, no economies of scale. A 640-bed facility has a per diem cost of \$186, a \$125 difference per diem. Using Shoreline's ADP of 29.3 for the past four years as a base, the City's potential yearly savings would be over \$1.3 million if it joined with Seattle and the other North and East Cities in constructing a 640-bed facility as opposed to participating in a 200-bed facility.

## Exhibit B

### Estimated Per Diem Costs for a 200, 440, and 640-Bed Regional Jail Facility

	Number of Beds		
	200	440	640
Per Diem for Operating Costs	\$ 182.74	\$ 108.79	\$ 92.27
Per Diem for Capital Costs	\$ 78.82	\$ 70.75	\$ 63.06
Per Diem for Estimated Land Costs (Low Rise)	\$ 9.37	\$ 6.16	\$ 6.54
<b>Combined Per Diem Costs (Based on 100% occupancy)</b>	<b>\$ 270.93</b>	<b>\$ 185.69</b>	<b>\$ 161.87</b>
<b>Combined Per Diem Costs (Based on 85% occupancy)</b>	<b>\$ 311.57</b>	<b>\$ 213.54</b>	<b>\$ 186.15</b>
<b>Combined Per Diem Costs (Based on 70% occupancy)</b>	<b>\$ 352.21</b>	<b>\$ 241.40</b>	<b>\$ 210.43</b>

Source: Carter Goble Lee, October 6, 2008

The potential size and acreage requirements and the total project costs can be seen on Exhibit C and D respectively. The consultant has looked at single story and multi-story spatial needs for each of the different sized facilities. Acreage amounts range from 3.9 for a four-story 200-bed facility to 10.5 for a single story 640-bed facility. Total project costs, which do not include land acquisition, range from \$88 million (adjusted for 2011 \$s) for a 200-bed facility to \$237 million (adjusted for 2011 \$s) for a 640-bed facility. There is a \$15 difference in the per diem debt service amount between a 640-bed facility and a 200-bed facility, with the 200-bed facility paying the greater per diem debt service amount.

## Exhibit C

### Preliminary Site Area Calculations Based on Facility Size

Regional Jail Facility	200		440		640	
Building Footprint	Maximum Site Size	Minimum Site Size	Maximum Site Size	Minimum Site Size	Maximum Site Size	Minimum Site Size
Total Building Square Footage	91,000		180,972		252,672	
Number of Floors (housing Unit floor equals two levels)	1	4	1	4	1	4
Size of Building Footprint (Based on size of the Building Core or stacked housing above)	81,190	25,600	160,534	44,220	222,960	54,592
Number of Acres for Structure	1.9	0.6	3.7	1.0	5.1	1.3
Parking Footprint (Assumes all surface parking)						
Regional Detention Facility						
Estimate Number of Staff Parking (Based on a variable ratio of staff/inmates)	128		162		186	
Staff Parking Spaces Based on 80% of staff on 1st/2nd Shifts	103		129		149	
Family and Official Visitor Parking (Based on peak time and 50% of staff parking)	51		65		75	
Total Estimated Parking	154		194		224	
Parking Demand Based on 15% Alternative Mode Usage	131		165		190	
Square Footage for Surface Parking/Landscaping (Based on 500 SF/car)	65,484		82,477		95,044	
Number of Acres for Surface Parking	1.51		1.90		2.18	
Square Footage for Structured Parking/Landscaping (Based on 420 SF/car)	55,007		69,281		79,837	
Number of Acres for Structured Parking (Assume two levels)	0.63		0.80		0.92	
Setbacks and Buffer Footprint						
SF for Site Setbacks and Buffer Zone	94,000	79,000	105,000	87,000	139,000	101,000
Buffer and Setback Distance	50'	50'	50'	50'	50'	50'
Acres for Setbacks and Buffer Zones	2.2	1.8	2.4	2.0	3.2	2.3
TOTAL SITE ACREAGE REQUIRED BASED ON SURFACE PARKING	5.5	3.9	8.0	4.9	10.5	6.8
Minimum Site Dimensions Based on Surface Parking	350' X 775'	350' X 570'	350' X 995'	350' X 615'	350' X 1390'	350' X 800'
TOTAL SITE ACREAGE REQUIRED BASED ON STRUCTURED PARKING	4.7	3.0	6.9	3.8	9.2	4.5
Minimum Site Dimensions Based on 2-Level Structured Parking	350' X 580'	350' X 380'	350' X 860'	350' X 475'	350' X 1150'	350' X 560'

Source: Carter Goble Lee, August, 2008

Note: An Arraignment Courtroom is included in each option.

The minimum dimension was considered a city block; approximately 350 feet.

# Exhibit D

## Preliminary Construction Cost for Three Facility Sizes (2011 \$\$)

Category	200-Beds		440-Beds		640-beds	
	SF	Cost	SF	Cost	SF	Cost
<b>CONSTRUCTION COSTS</b>						
<b>Components</b>						
Administrative	5,800	\$ 2,492,117	6,820	\$ 2,887,648	7,552	\$ 3,168,157
Security Administration/Intake & Release	5,200	\$ 2,121,414	9,240	\$ 3,775,270	12,160	\$ 4,978,243
Program Services	1,600	\$ 603,419	2,860	\$ 1,078,611	3,520	\$ 1,327,521
Inmate Services	1,700	\$ 720,670	3,520	\$ 1,492,364	3,840	\$ 1,628,033
Medical Services	2,200	\$ 980,734	4,620	\$ 2,059,541	6,080	\$ 2,710,392
Food Services	3,500	\$ 1,446,540	6,600	\$ 2,735,414	8,000	\$ 3,296,842
Maintenance	5,600	\$ 1,664,795	10,560	\$ 3,133,715	13,440	\$ 3,995,507
Subtotal Support Services	25,600	\$ 10,029,688	44,220	\$ 17,162,563	54,592	\$ 21,104,695
Dormitory Housing	13,800	\$ 5,894,194	30,360	\$ 12,967,227	44,160	\$ 18,861,421
Cell Housing	47,600	\$ 21,503,624	100,100	\$ 45,220,856	145,600	\$ 65,775,790
Housing Support	4,000	\$ 1,510,979	6,380	\$ 2,410,012	8,320	\$ 3,142,837
Subtotal Housing	65,400	\$ 28,908,797	136,840	\$ 60,598,095	198,080	\$ 87,780,048
Site Development Costs		\$ 3,944,390		\$ 5,169,312		\$ 6,166,272
Construction Contingency		\$ 6,432,431		\$ 12,439,495		\$ 17,257,652
Building Construction Costs		\$ 49,315,307		\$ 95,369,465		\$ 132,308,668
Sales Tax @ 9%		\$ 4,438,378		\$ 8,583,252		\$ 11,907,780
<b>Total Construction Costs</b>	<b>91,000</b>	<b>\$ 53,753,684</b>	<b>181,060</b>	<b>\$ 103,952,717</b>	<b>252,672</b>	<b>\$ 144,216,448</b>
<b>PROJECT COSTS</b>						
<b>Components</b>						
FF&E		\$ 10,964,426		\$ 21,188,288		\$ 29,270,574
Project Fees		\$ 13,023,295		\$ 28,264,207		\$ 35,968,888
Project Contingencies		\$ 10,712,104		\$ 21,252,318		\$ 28,106,801
Total Project Costs		\$ 34,699,825		\$ 70,704,813		\$ 93,346,263
<b>TOTAL COSTS</b>		<b>\$ 88,453,509</b>		<b>\$ 174,657,530</b>		<b>\$ 237,562,711</b>
Annual Debt Service (30 years @ 5%/year)		\$ 5,754,028		\$ 11,361,723		\$ 15,453,795

Source: Carter Goble Lee; August 2008

On June 25, the elected officials of the NECC met to discuss Phase 1 of the feasibility analysis. Councilmember Hansen is the City's representative. The main decision-making point was to determine if the NECC recommendation to their respective Councils would be to construct and operate one or two facilities. The consensus was to recommend going forward with the 640 bed regional jail facility option that includes Seattle.

## SEPA NOMINAL LEAD AGENCY AGREEMENT:

As stated earlier, the Principal Cities are working under a very tight timeline to meet the four-year window to site, design, and construct a new jail. Once the Principal Cities have identified potential sites, they will need to move quickly to begin the Environmental Impact Statement (EIS) study and pre-design process on those identified sites.

The Agreement establishes respective roles and obligations for those cities choosing to participate in the SEPA process and provides a mechanism for interlocal cooperation with respect to the environmental. Actions governed by the Agreement include all things related to conducting an EIS on any potential sites.

Under the terms of the Agreement, Seattle will act as the nominal lead throughout the SEPA process and Bellevue, Kirkland, Redmond, and Shoreline will act as co-lead agencies. The agreement is designed to allow for consensus decision-making if possible, but also provides equitable decision-making if consensus is not possible. A change to the budget is the only decision that requires unanimous support.

#### **Designated Representatives and Their Authority**

Each of the Principal Cities will designate an official (elected or appointed) to approve matters under the terms of the Agreement for that city. The designated representative will be responsible for:

- making approvals with regard to the issuances of the Draft EIS (DEIS) and the Final EIS (FEIS);
- whether the SEPA process will be phased or comprehensive;
- any amendments to the Agreement; and
- any decision with respect to any appeals of the FEIS.

For the above decisions, at least three of the Principal Cities, one of which must be Seattle, must agree. The Principal Cities will consult as to the identification of a preferred alternative to include in the FEIS. Consensus is the preferred method for making a decision on a preferred alternative; however, if consensus cannot be reached, then approval of at least three Principal Cities, which must include (i) Seattle, and (ii) any Principal City where the preferred alternative would be located, will be required.

#### **Nominal Lead Agency – Seattle**

Under the terms of the agreement, Seattle will act as the nominal lead agency for the EIS study process. As the Nominal Lead, Seattle will be responsible for working with the SEPA consultants, architects, and others hired to conduct the EIS study, and managing all related activities.

#### **Co-Lead Cities – Bellevue, Kirkland, Redmond, and Shoreline**

As one of the co-lead cities, Shoreline will be responsible for reviewing drafts of the scoping notices; preliminary draft discipline reports and technical memoranda; preliminary drafts of the DEIS; and drafts of the FEIS.

#### **Budget, Costs, and Reimbursements**

The total budgeted costs outlined in the Agreement are approximately \$3,300,000. Under the terms of the Agreement, the total costs are not to exceed the budgeted amount. The budget covers all expenses associated with conducting a comprehensive EIS on multiple sites. The Principal Cities will share the costs associated with the EIS process based on percentages determined by combining a city's population and its average daily jail population (ADP.) Other north and east cities wishing to participate in the EIS process may do so by paying their fair share of costs; however, those cities will not have any voting rights under the terms of the Agreement. Any city that does not enter into the Agreement, but agrees to be a part of the jail planning process later will pay its share of the EIS costs retroactively. Shoreline's share of the costs under the terms of the Agreement will not exceed \$229,000. That amount includes the cost of any appeals to the hearing examiner on the FEIS.

The funds to pay Shoreline's portion of the costs will come from the sale of a 6.78 acre parcel of land located in Bellevue and jointly owned by all King County cities that are members of the JAG. In 2002, King County and the City of Bellevue entered into an agreement conveying the parcel to Bellevue on behalf of the JAG in exchange for the JAG cities accepting population caps and jail rate increases. Likewise, in 2003 the King County cities entered into an interlocal agreement that included certain conditions for use of the proceeds should the King County cities agree to sell the Bellevue property. Under the terms of that interlocal agreement, the cities must use the property proceeds solely for addressing the cities' long-term jail needs.

The City of Bellevue has negotiated the sale of the property, which ties the sale price to the potential rezone of the property. Therefore, Shoreline's portion of the proceeds ranges from \$311,000 to \$386,000. It is anticipated that none of the costs identified in the Agreement will come due for Shoreline until after the sale has closed.

### **ALTERNATIVES ANALYSIS**

#### **Continuing Contracting**

Since 2002 the JAG cities have met their collective jail bed need primarily through major contracts with King and Yakima Counties (supplying approximately 770 beds), with other cities and counties also providing beds to individual JAG cities on a smaller scale. Of all the JAG cities, only Auburn, Issaquah, Kirkland and Renton have their own municipal jails, and have offered beds to their city neighbors on a space-available or space-guaranteed basis. Although city-to-city arrangements for jail space have worked well for general population housing, only 3-5% of the beds the JAG cities require can be supplied within the JAG consortium.

Contracting with large-scale providers such as King and Yakima Counties would seem to be a viable option for Shoreline. However, King County only plans to extend the contract with King County cities for an additional year, ending on December 31, 2013. Likewise, King County completed an assessment of its own jail bed needs and concludes that it will be unable to meet its own needs from 2015 forward. Contracting with King County for any portion of the 1,450 bed need will not be possible unless the County adds substantial capacity.

Yakima County is willing to continue providing guaranteed beds at higher negotiated rates. However, ongoing issues with this contract are largely a result of their limited availability of beds for female inmates and Yakima's inability to transport and house inmates with serious medical or psychological conditions. In addition, due to their geographical distance, Yakima cannot serve as a booking site.

Aside from guaranteeing access to beds, including for special needs inmates, staff concludes that other important issues preclude consideration of continued contracting including:

- Inability to control cost and quality of service;
- Unpredictability of future costs;
- Uncertainty about continuing bed availability; and

- Lack of access to policy, management, and overall operational decision-making.

### **Building Our Own Jail**

Another possible alternative for Shoreline would be to build its own jail. This would provide the City with much greater control over its inmate population; jail operations and programming; and costs associated with operating a jail. However, building and operating a single city jail would be substantially more expensive than working with other cities on a regional jail. As the feasibility study showed, the cost savings associated with building and operating a larger jail compared to a smaller one are significant. One of the biggest reasons for the cost disparity has to do with staffing ratios. A large jail can operate with less staff per inmate than a smaller jail.

In addition, if Shoreline built its own jail, it would most likely still have to contract with another jail to house inmates needing medical or psychiatric care, which still puts Shoreline at the mercy of other jails. Shoreline also does not have any experience operating a jail. Operating its own jail would require significant staff increases just to deal with jail administration issues. In a regional jail, administrative costs would be spread among all participating cities.

### **Partnering on a Regional Jail**

Partnering with other cities to build a regional jail is the one option that addresses all of the City's needs in the most cost effective manner. From a purely financial and operational standpoint, coordinating and managing jail services on a regional basis makes the most sense. The economies of scale achieved in building one large regional jail compared to several smaller jails are significant. In addition, operating a regional jail also helps streamline the criminal justice process since many inmates have charges from multiple jurisdictions. Having one regional facility that can address many of those multiple charges can have significant cost savings by cutting down on transport between jurisdictions and it allows for a better tracking of inmates.

### **Recommended Option:**

Partnering on a regional jail will address all of Shoreline's needs when it comes to housing its misdemeanor population. The City would have guaranteed bed space; a local booking facility; and access to psychiatric and medical housing. Shoreline would also have a voice in the decision making process when it came to operational or governance issues.

While partnering with other cities on a regional jail can limit Shoreline's options to some extent when it comes to managing its misdemeanor population, the cost savings and housing guarantees associated with being involved in a regional jail make this the recommended option.

### **SEPA Nominal Lead Agency Agreement**

The Council has three options with regard to the SEPA Nominal Lead Agency Agreement :

- Option 1 – Sign the Agreement  
Council approves the Agreement and Shoreline becomes a full partner in the

regional jail planning process with the North and East Cities. This agreement represents the first major step Council will take toward building and operating a regional jail facility.

- **Option 2 – Don't Sign the Agreement, Join Later**  
Council decides not to approve the Agreement and not be part of the regional jail planning process. Shoreline could potentially rejoin the regional planning process later, but it would have to pay any costs incurred up to that point. The City would not have a say in the siting process and the final siting decision under this option. This option risks having the regional partnership fail if Shoreline declines to participate at this juncture.
- **Option 3 – Don't Sign the Agreement, Contract for Future Bed Needs**  
Council decides not to be part of the regional jail planning process at all and just becomes a contract city with the regional jail once completed. However, if the Council decided the City should be a contract city instead of a participant in the regional jail governing structure, the City would not have a guaranteed number of beds in the new facility and its jail bed rates may be substantially higher than those cities that were part of the jail planning process. The City also would not be able to participate in making governance and operational decisions with regard to the jail.

#### **RECOMMENDATION**

No action is required at this time. However, staff recommends that the Council authorize the City Manager to execute an agreement for the SEPA nominal lead agency for a regional jail facility. Action is scheduled for the October 27 business meeting.

#### **ATTACHMENTS**

Attachment A: SEPA Nominal Lead Agency Agreement