

**Subject: RES 735 – Interlocal Agreement
 With Pierce County for Solid
 And Hazardous Waste
 Management Planning**

Dept. Origin: Clerk’s Office
**Prepared by: Jennifer Robertson
 City Attorney’s Office**
For Agenda of: November 2, 2021
**Exhibits: RES 735 & Interlocal
 Agreement**

Initial & Date

Concurred by Mayor: _____
Approved/form by City Atty: JSR/10-20-21
Approved by _____ Director: _____
Approved by Department Head: _____

Proposed Council Action:

Adopt Resolution No. 735.

INFORMATION / BACKGROUND

Cities may make agreements with other governmental agencies under the Interlocal Cooperation Act.¹ State law² requires or authorizes counties, in cooperation with the various cities located within such county, to prepare a coordinated, comprehensive solid & hazardous waste management plan. All solid waste management plans must be maintained in current condition by periodic updates that include the estimated long-range planning needs for solid waste handling facilities projected twenty years into the future and local governments may also periodically update their hazardous waste plans.³ Washington requires cities to either 1) prepare their own solid waste management plans for integration into the county plan or 2) agree with the county to participate in a joint city-county solid waste management plan or 3) authorize the county to prepare a city plan for inclusion in the comprehensive county solid waste management plan.⁴

Ruston and many other Pierce County cities previously entered into an Interlocal Agreement for the purpose of implementing the 2000 Tacoma-Pierce County Solid Waste Management Plan. The 2000 Plan must now be updated and replaced. While Ruston has the right to create its own solid and hazardous waste plan, that is a significant body of work which is why the City joined Pierce County in the regional planning effort last time.

¹ See Chapter 39.34 RCW “Interlocal Cooperation Act.”

² RCW 70A.205.040 and RCW 70A.300.350.

³ RCW 70A.205.075.

⁴ RCW 70A.205.040.

The County desires to develop and implement environmentally sound and cost-effective solid waste management programs including waste reduction and recycling programs that reduce greenhouse gas emissions as appropriate from the disposed waste stream in cooperation and consultation with its cities. The scope of this work will include adopting, maintaining, and enforcing minimum levels of service for residential source separation and collection of recyclables, including residential curbside recycling programs, multi-family recycling programs, and residential yard waste collection programs. The scope will also include creating a coordinated system for the management and disposal of solid waste in Pierce County.

Under the proposed Agreement, Ruston will have opportunities to review and provide input on the plan and to approve or reject the Ruston plan prepared by the County. However, if Ruston rejects the plan, it will then be required to prepare its own plan.

The Agreement is for 20 years. Given the time it will take to prepare an independent city plan, the Agreement may only be terminated with 12 months' notice and the submission of a city-specific plan.

FISCAL CONSIDERATION

The expense of this contract is minimal. The City staff will need to participate in working with the County on the planning, provide input to the County, and the Council will need to either accept or reject the draft plan.

RECOMMENDATION / MOTION

Adopt Resolution No. 735.

MOTION: I move approval of Resolution No. 735 authorizing the Mayor to execute an interlocal agreement with Pierce County for solid and hazardous waste planning.

RESOLUTION NO. 735

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT WITH PIERCE COUNTY FOR COMPREHENSIVE SOLID AND HAZARDOUS WASTE MANAGEMENT PLANNING WITHIN PIERCE COUNTY.

WHEREAS, in accordance with Chapter 39.34 RCW, the “Interlocal Cooperation Act”, the City is authorized to contract with other governmental agencies to provide services that the City is authorized to perform; and

WHEREAS, RCW 70A.205.040 and RCW 70A.300.350 require or authorize counties, in cooperation with the various cities located within such county, to prepare a coordinated, comprehensive solid & hazardous waste management plan; and

WHEREAS, under RCW 70A.205.075, all solid waste management plans must be maintained in current condition by periodic updates that include the estimated long-range planning needs for solid waste handling facilities projected twenty years into the future and local governments may also periodically update their hazardous waste plans; and

WHEREAS, RCW 70A.205.040 requires cities to either 1) prepare their own solid waste management plans for integration into the county plan or 2) agree with the county to participate in a joint city-county solid waste management plan or 3) authorize the county to prepare a city plan for inclusion in the comprehensive county solid waste management plan; and

WHEREAS, County and many of the cities who will be signing this Interlocal Agreement previously entered into an Interlocal Agreement for the purpose of implementing the 2000 Tacoma-Pierce County Solid Waste Management Plan; and

WHEREAS, that 2000 Plan must now be updated and replaced; and

WHEREAS, the County in cooperation with cities desire to develop and implement environmentally sound and cost-effective solid waste management programs including waste reduction and recycling programs that reduce greenhouse gas emissions as appropriate from the disposed waste stream; and

WHEREAS, the County in cooperation with cities desire to adopt, maintain, and enforce minimum levels of service for residential source separation and collection of recyclables, including residential curbside recycling programs, multi-family recycling programs, and residential yard waste collection programs; and

WHEREAS, the County in cooperation with cities wish to agree to a coordinated system for the management and disposal of solid waste in Pierce County; and

WHEREAS, the proposed Agreement provides for opportunities for Ruston to review and provide input on the plan and to approve or reject the Ruston plan prepared by the County; and

WHEREAS, the City Council finds it in the public interest to authorize the Mayor to execute the proposed Interlocal Agreement for Solid and Hazardous Waste Management Planning which is attached to this Resolution as Exhibit “1”; **NOW, THEREFORE,**

THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Authorization of Agreement. The Mayor is hereby authorized to execute the Interlocal Agreement regarding solid and hazardous waste management planning between the City of Ruston and the Pierce County in substantially the form attached hereto as Exhibit “1”.

Section 2. Posting on Website Required. The Clerk is directed to post a copy of this Agreement, once fully executed, on the City’s website.

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RESOLVED this 2nd day of November, 2021.

APPROVED:

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

RESOLUTION NO.: 735

Attachment “1”
Interlocal Agreement
Solid and Hazardous Waste Planning
Between
Pierce County
and
City of Ruston

Interlocal Agreement for Comprehensive Solid and Hazardous Waste Management Planning within Pierce County

Pursuant to Chapter 39.34 RCW and RCW 70A.205.040(3)(c), this Interlocal Agreement (Agreement) is entered into between Pierce County, a municipal corporation, and a political subdivision of the State of Washington ("County"), and the City of Ruston, a municipal corporation authorized by Washington State, establishing the obligations of the Parties for comprehensive solid and hazardous waste management planning.

WHEREAS, the City of Ruston and the County acknowledge that County intends to enter into identical individual Agreements with the cities and towns of Bonney Lake, Buckley, Carbonado, DuPont, Eatonville, Edgewood, Fife, Fircrest, Gig Harbor, Lakewood, Milton, Orting, Puyallup, Roy, Ruston, South Prairie, Steilacoom, Sumner, University Place, and Wilkeson, creating a single agreement among all parties who execute identical individual Agreements. Each identical individual Agreement will differ only as to the City or Town identified as the non-County party to the Agreement. This Agreement will reference the cities and towns who execute individual identical Agreements collectively as the "Signatory Cities" and individually as the "Signatory City." Any signing entity also may be referenced as "Party" or, in any combination, "Parties."

WHEREAS, RCW 70A.205.040 and RCW 70A.300.350 require or authorize counties, in cooperation with the various cities located within such county, to prepare a coordinated, comprehensive solid & hazardous waste management plan; and

WHEREAS, under RCW 70A.205.075, all solid waste management plans must be maintained in current condition by periodic updates that include the estimated long-range planning needs for solid waste handling facilities projected twenty years into the future and local governments may also periodically update their hazardous waste plans; and

WHEREAS, RCW 70A.205.040 requires cities to either 1) prepare their own solid waste management plans for integration into the county plan or 2) agree with the county to participate in a joint city-county solid waste management plan or 3) authorize the county to prepare a city plan for inclusion in the comprehensive county solid waste management plan; and

WHEREAS, County and many of the Signatory Cities previously entered into an Interlocal Agreement for the purpose of implementing the 2000 Tacoma-Pierce County Solid Waste Management Plan, which plan must now be replaced; and

WHEREAS, the Parties wish to develop and implement environmentally sound and cost-effective solid waste management programs including waste reduction and recycling programs that reduce greenhouse gas emissions as appropriate from the disposed waste stream; and

WHEREAS, the Parties wish to adopt, maintain, and enforce minimum levels of service for residential source separation and collection of recyclables, including residential curbside recycling programs, multi-family recycling programs, and residential yard waste collection programs; and

WHEREAS, the Parties wish to agree to a coordinated system for the management and disposal of solid waste in Pierce County; and

WHEREAS, RCW 39.34.030 authorizes governments to enter agreements to jointly or cooperatively exercise their powers;

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, it is hereby agreed:

I. PURPOSE OF AGREEMENT

The Parties intend this Agreement to provide for creation of the 2021 Tacoma-Pierce County Solid & Hazardous Waste Management Plan, implementation of that plan, and periodic updates or replacement of that plan, all in compliance with Chapters 70A.205 and 70A.300 RCW.

II. AUTHORITY

- A. The planning process that is the subject of this Agreement is required by and governed by Chapters 70A.205 and 70A.300 RCW.
- B. The Signatory Cities hereby choose, under RCW 70A.205.040(3)(c), to authorize Pierce County to prepare a plan for the Signatory Cities' solid waste management and to incorporate Signatory City plans in the County's comprehensive 2021 Tacoma-Pierce County Solid & Hazardous Waste Management Plan ("Plan").
- C. The Signatory Cities agree that County will coordinate development of the Plan through the Pierce County Solid Waste Advisory Committee (SWAC), an advisory citizen board which includes Signatory City representation.
- D. The Signatory City executing this individual Agreement agrees that by doing so, it is entering into an agreement among the County and all Signatory Cities, binding County and all Signatory Cities to the terms set forth in this Agreement.

III. OBLIGATIONS

A. County

- 1. County, at its own expense, will prepare, and maintain in a current condition, the Plan, including plans for the Signatory Cities. As part of this obligation, County will circulate drafts to the Signatory Cities for review and comment and will circulate final drafts to the Signatory Cities for approval or rejection.
- 2. The County will coordinate planning activities with the City of Tacoma and incorporate materials submitted by Tacoma into the Plan.
- 3. County will implement and comply with applicable elements of an adopted Plan and any updates thereto.

B. Signatory Cities

- 1. Each Signatory City, at its own expense, will review and respond to draft versions of the Plan and updates thereof.
- 2. Each Signatory City, at its own expense and following its own procedures, will either approve the final draft of the Plan or of any update or will instead

prepare and deliver to the Pierce County Auditor that Signatory City's own solid waste management plan for integration into the Plan.

3. Signatory Cities will implement and comply with applicable elements of an adopted Plan and any updates thereto.

C. Budget and property

No financing, joint budget, or joint property acquisition is required for the joint and cooperative exercise of local government powers under this Agreement. Each Party is responsible for the expenses listed as its obligation above and shall also be responsible to acquire, hold, or dispose of any real or personal property needed to meet its obligations under this Agreement.

IV. DISPUTE RESOLUTION

- A. Any disputes arising under the terms of this agreement shall be resolved through a negotiated effort to reach consensus. The Parties may agree to mediation as part of such effort. If the Parties are unable to resolve the dispute, the Parties hereby agree to arbitration. The Parties shall attempt to agree on an arbitration administrator, a set of arbitration rules, and a single arbitrator. If they cannot, then the Parties hereby agree to select the arbitrator or arbitration panel and to conduct the arbitration under the administration and rules of JAMS Seattle Mediation, Arbitration and ADR Services. The decision of the arbitrator or arbitration panel shall be considered final. In any dispute, each Party shall be responsible for its own attorney fees and other costs, and each disputing Party shall pay an equal share of the costs of arbitration, mediation, or other alternative dispute resolution.

V. ADDITIONAL MUNICIPALITIES

- A. Additional municipal entities may join the agreement among County and all Signatory Cities if that municipal entity's governing body agrees to the then current terms of this Agreement (including any amendments) pursuant to RCW 39.34.030(2) and executes an identical individual copy of the Agreement.

VI. PLAN DEVELOPMENT PROCESS

- A. The Parties agree to the following process for development of the Plan, updates to the Plan, and replacement of the Plan.
- B. Process
 1. With input from SWAC, County staff will develop a draft and circulate that draft to Signatory Cities and to the Washington State Department of Ecology (Ecology).
 2. Signatory Cities will provide responsive comments, if any. If a Signatory City has not provided a response 30 days after receiving the draft, County may presume that Signatory City has no response and is not seeking any change to the draft.
 3. After good faith consideration of any responses from Signatory Cities and Ecology, County staff will prepare a final draft. County has discretion to

decide whether to change the final draft as a result of a Signatory City response.

4. County will provide the Signatory Cities with the final draft for each Signatory City to consider for approval under that City's own governing procedures.
5. Upon adoption, as defined herein, County will submit the adopted final draft to Ecology.

C. Initiating Amendments and Updates

1. Either the County or any Signatory City may propose amendments to the Plan to keep the Plan in a current condition. Upon such proposal, County shall conduct the Plan development process as outlined in this section.
2. The County shall prepare Plan updates as required by Chapter 70A.205 RCW or by Ecology.

VII. PLAN OR UPDATE ADOPTION

The Plan, any Plan update, and any replacement Plan are adopted when the Plan or update has been fully approved, under each approving Party's governing procedures, by any combination of Signatory Cities and of the County representing 75% of the population living within the Pierce County Solid Waste Management System's geographic area. The Pierce County Solid Waste Management System includes all of Pierce County except the City of Tacoma and Joint Base Lewis McChord. To determine the 75% threshold, the Parties agree to use the population numbers maintained by the Washington State Office of Financial Management. Each Party hereby agrees to be bound by and comply with any Plan or update that is so approved, even if that Party has not itself approved it, reserving such a Party's right to end its participation in this Agreement as set forth herein.

VIII. TERM

- A. Commencing on the Effective Date, as defined herein, the term of this Agreement is twenty (20) years.
- B. A Signatory City may withdraw from this Agreement before expiration of the term, but only upon submission of its own solid waste management plan and its own hazardous waste plan, satisfying all requirements for such plans under Washington State law. To allow time to prepare and obtain approval of those required plans, a Signatory City must provide 12 month's advance written notice to County before the proposed withdrawal date. Withdrawal will not be effective until that proposed withdrawal date or until full approval of the required plans, whichever date is later.
- C. Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated by any Party's legislative body for that Party's obligations under this Agreement for any future fiscal period, that Party will not be required to meet those obligations after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized that Party's legislative body,

PROVIDED THAT, each Party is and remains obligated to comply with an adopted Plan and any updates thereto regardless of fund allocation or appropriation. No penalty or expense shall accrue to the affected Party in the event this provision applies.

- D. The Parties do not anticipate that this Agreement will result in the joint ownership or possession of any real or personal property. Upon expiration or earlier termination, there will be no jointly held property needing disposition. Each Party will remain responsible for its own costs, whether incurred during this Agreement or otherwise.

IX. EFFECTIVE DATE

- A. This Agreement shall be effective after it is approved by the Pierce County Council and executed by the Pierce County Executive, which shall occur only after the Signatory City has fully executed it.

X. NOTICE

- A. Notices required by or related to this Agreement shall be in writing and sent by either: (a) United States Postal Service first class mail, postage pre-paid; (b) personal delivery; or (c) by email to the email addresses designated below, if the subject line indicates that the email is formal notice under this Agreement and also references the Pierce County contract number designation. The notice shall be deemed delivered on the earlier of: (a) Actual receipt; (b) Three (3) business days from deposit in the United States mail; or (c) the day and time the email message is received by the recipient's email system, but emails received between 5:00 PM and 8:00 AM will be considered delivered at the start of the next business day. Notices shall be sent to the following addresses:

Pierce County contact information:

Contract Services
950 Fawcett Avenue, Suite 200
Tacoma, WA 98402
pcpwcontractservices@piercecountywa.gov

City of Ruston Contact information:

City Clerk, City of Ruston
5117 N. Winnifred Street,
Ruston, WA 98407
townclerk@rustonwa.org

- B. Any Party, by written notice to the others in the manner herein provided, may designate a physical or email address different from that set forth above.

XI. ADMINISTRATOR

No separate entity or joint board is established by this Agreement. The manager of the Sustainable Resources Division of the Pierce County Planning and Public Works Department shall be the Agreement Administrator. If a Division of that name ceases to exist, the manager of whatever County office succeeds to its responsibilities shall be the Agreement Administrator.

XII. MUTUAL INDEMNIFICATION

To the extent of its comparative liability, each Party agrees to indemnify, defend and hold the other Party, its elected and appointed officials, employees, agents, and volunteers, harmless from and against any and all claims, damages, losses, and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any injury or damage of any kind which are alleged or proven to be caused by an act or omission, negligent or otherwise, of the indemnifying Party, its elected and appointed officials, employees, agents, or volunteers.

A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss, or expense for any injury or damage of any kind is caused by the sole act or omission of the other Party.

The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the Parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

With respect to the performance of this Agreement and as to claims against the other Party, its officers, agents and employees, the indemnifying Party expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the indemnifying Party. This waiver is mutually negotiated by the parties to this Agreement.

XIII. ENTIRE AGREEMENT AND MODIFICATION

This Agreement embodies the entire agreement and understanding between the Parties hereto with respect to its subject matter and supersedes all prior agreements and understandings, whether written or oral, relating to its subject matter. No amendment or modification of this Agreement shall be valid unless made in writing and signed by each of the Parties.

XIV. CHOICE OF LAW, VENUE AND RESPONSIBILITY FOR ATTORNEY FEES AND COSTS

This Agreement and all issues relating to its validity, interpretation, and performance shall be governed by and interpreted under the laws of the State of Washington without regard to conflict of law provisions. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the Parties specifically understand and agree that venue will be in Pierce County, Washington. In the event of any dispute related to this Agreement, whether pursued in court or otherwise, each Party shall be responsible for its own actual attorney fees and costs.

XV. SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable, such provision shall be fully severable, and the remainder of this Agreement shall remain in full force and effect.

XVI. RECORDING OR PUBLIC LISTING

The Parties agree that this Agreement, after full execution, either will be recorded with the Pierce County Auditor or listed by subject on Pierce County's web site or other electronically retrievable public source, as required by RCW 39.34.040.

XVII. COUNTERPARTS

This Agreement may be executed in as many counterparts as may be deemed necessary or convenient, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. Digital signatures, including those transmitted by e-mail (PDF attachment) or facsimile transmission shall be acceptable.

IN WITNESS WHEREOF, this contract will be fully executed when all parties have signed below.

CITY OF RUSTON:

Bruce Hopkins, Mayor **Date**

Attest:

Judy Grams, City Clerk

Approved as to form:

Jennifer S. Robertson, City Attorney

PIERCE COUNTY:

Approved as to Legal Form Only:

Prosecuting Attorney **Date**

Approved:

Department Director **Date**

Finance Director **Date**

County Executive **Date**