

RESOLUTION NO. R- 2767

A RESOLUTION OF THE KIRKLAND CITY COUNCIL AUTHORIZING THE CITY OF KIRKLAND TO ENTER INTO SUCH CONTRACTS AND AGREEMENTS WITH THE STATE DEPARTMENT OF TRANSPORTATION AS MAY BE NECESSARY AND REQUIRED IN ORDER FOR THE CITY OF KIRKLAND TO RECEIVE "CERTIFICATION ACCEPTANCE" AS QUALIFIED TO ADVERTISE FOR AND AWARD BIDS AND LET CONTRACTS FOR CITY STREET PROJECTS FUNDED IN PART BY FEDERAL AID.

WHEREAS, the Federal Government, through its Department of Transportation, pursuant to Title 23 U.S. Code Highways, has established programs for federal aid to the states, the general purpose of which is to increase the capacity and/or safety of arterials in the United States; and

WHEREAS, the Washington State Department of Transportation is responsible for the expenditure of federal aid funds within the State of Washington; and

WHEREAS, the City of Kirkland and the State of Washington have certain responsibilities as conditions both precedent and subsequent to the receipt of federal aid through federal aid programs for such projects on streets and arterials within the City of Kirkland; and

WHEREAS, such federal and state regulations require State suthorization, review and approval of the contract plans, specifications, advertisement for bid, and award of contract as to each individual project, unless the local agency has entered into a "certification acceptance qualification agreement" and a "local agency ad and award agreement"; and

WHEREAS, the obtaining of individual project approvals are of necessity, time consuming and may result in unforeseen delay, now, therefore,

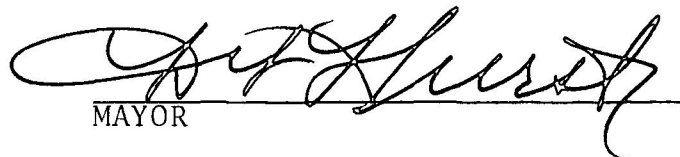
BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The Mayor of the City of Kirkland is hereby authorized and directed to sign on behalf of the City of Kirkland such contracts and agreements with the Washington State Department of Transportation as may be necessary and required for the City of Kirkland to receive "certification acceptance qualification" and "local agency ad and award authority", including execution of the "Washington State Department of Transportation Certification Acceptance Qualification Agreement" and the "Washington State Department of Transportation Local Agency Add and Award Agreement" (copies of which two agreements are attached hereto and by this reference incorporated herein).

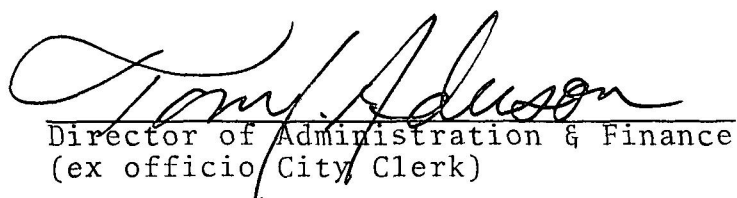
Section 2. Pursuant to the Washington State Department of Transportation policy procedures and certification acceptance local agency guidelines, the Kirkland City Manager is the designated "responsible local official".

PASSED by majority vote of the Kirkland City Council in regular meeting on the 3rd day of November, 1980.

SIGNED IN AUTHENTICATION THEREOF on the 3rd day of November, 1980.


MAYOR

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

1950

AGREEMENT

LOCAL AGENCY AD & AWARD PROCEDURES

THIS AGREEMENT is executed this _____ day of _____, 19____ by and between the STATE OF WASHINGTON, acting through the Washington State Transportation Commission and the Secretary of Transportation, hereinafter called the "STATE" and the CITY/COUNTY OF Kirkland, WASHINGTON, a municipal corporation, hereinafter called the "CITY/COUNTY";

WHEREAS, the FEDERAL GOVERNMENT, through its Department of Transportation, pursuant to Title 23, U. S. Code Highways, has established programs of Federal-aid to the States, the general purpose of which is to increase the capacity and/or safety of arterials in the United States; and

WHEREAS, the parties hereto desire to accomplish Federal-aid projects, with the aid of Federal-aid funds provided under Federal Highway Acts, Title 23, U. S. Code, Highways, Federal-aid programs and all amendments thereto and the rules and regulations promulgated by said U. S. Department of Transportation; and

WHEREAS, the STATE is responsible for the expenditure of Federal-aid funds and, therefore, becomes a willing signatory to this agreement; and

WHEREAS, the CITY/COUNTY and STATE have certain responsibilities as conditions both precedent and subsequent to the receipt of Federal-aid through Federal-aid programs for such projects, all of which are set forth in such Title 23, U. S. Code, Highways; and

WHEREAS, Volume 6, Chapter 4, Section 1, Subsection 6, Federal-aid Highway Program Manual allows the STATE to arrange for the CITY/COUNTY to let a contract;

NOW, THEREFORE, in consideration of the promises, covenants, conditions and performances set forth below the parties hereto agree as follows:

CERTIFICATION

The STATE certifies that it is more advantageous for the CITY/COUNTY to let the contract on those projects where the CITY/COUNTY has jurisdiction over the street.

The CITY/COUNTY certifies that it is more advantageous to let the contract on those projects where the CITY/COUNTY is paying part of the cost of the work or has other special interest therein.

The CITY/COUNTY certifies that it is adequately staffed and suitably equipped to undertake and satisfactorily complete the work.

The CITY/COUNTY agrees to let contracts in accordance with procedures set forth in Exhibit "A" which is attached hereto and by this reference incorporated herein.

II

COMPLIANCE WITH PROVISIONS

The CITY/COUNTY agrees to comply with any and all requirements set forth in Title 23, U. S. Code, Highways, and the regulations issued pursuant thereto, and the city/county agreement executed with the STATE, including all laws rules and regulations, policies and procedures incorporated by reference to and made a part of said agreement.

III

INDEMNITY

The CITY/COUNTY shall hold the FEDERAL GOVERNMENT and the STATE harmless from and shall process and defend at its own expense, all claims, demands, suits at law or equity brought against the CITY/COUNTY, STATE or FEDERAL GOVERNMENT and from any liability or loss arising from the execution or performance of the provisions of this agreement, or of any other agreement or contract connected with this agreement on the part of the CITY/COUNTY, or arising by reason of the participation of the STATE or FEDERAL GOVERNMENT in the project.

No liability shall attach to the STATE or FEDERAL GOVERNMENT except as expressly provided herein.

IN WITNESS WHEREOF the parties hereto have set their hands and seals on the day and year first above written.

CITY/COUNTY OF Kirkland

BY: _____

ATTEST:

CITY/COUNTY CLERK

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

BY: _____
State Aid Engineer

EXHIBIT "A"
STANDARD PROCEDURES
BID ADVERTISING AND PROCESSING
FOR FEDERAL-AID PROJECTS

- I. Funding - Funding of the project is established, budgeted and provided in the accounts necessary to assure payment of project work.
- II. Bidding Procedures - After plans, specifications and right-of-way, if necessary, have been finalized and all interested departments of the City/County and other outside agencies are in agreement with the plans and specifications, and project is scheduled for bid by the (Director of Public Works, or City/County Engineer) through the City/County Clerk, the project is advertised in the Journal - American

for whatever number of days are designated by the City/County clerk. In the event changes or special action are necessary during this advertisement period, an addendum to the contract is forwarded to all plan holders either by mail or by personal delivery. Sealed bids are returned to the City Clerk

- III. Preparation of Proposal - Each bid shall be made on the forms furnished by the City/County and shall be signed by the bidder with the signature in full. If the proposal is made by a partnership, it shall contain the name of each partner and shall be signed in the firm name, followed by the signature of the person authorized to sign. If the proposal is made by a corporation, it shall be signed in the name of the corporation by the officer or officers having authority to sign contracts. The address and telephone number of the bidder shall be typed or printed on the proposal. A unit or lump sum price, as required in the proposal, shall be submitted on each item of work included in the group or division for which bids are requested. Each unit or lump sum price shall be typed or written in both words and figures. In case of a discrepancy between the words and the figures, the words shall govern. Any omission of prices on items shown in the proposal form or any addition in writing to the form of bid, or any condition, limitation or provision not officially invited in the proposal or special provisions may render the proposal as being incomplete or modified and may become cause for rejection of the bid.
- IV. Bid Opening - No bids are accepted after the date and time designated in the contract. The bids are then opened by the Director of Administration & Finance or his designated representative. All bids are read aloud.
- V. Verification of Bids - After the bid opening, the Director of Administration & Finance forwards

all bids to the Director of Public Works, City/County Engineer's office. The City/County Engineer or Director of Public Works checks to verify that all required bid documents have been properly submitted and executed by all bidders. All bids are then reviewed for accuracy, unbalancing of bid items, etc. and tabulations checked and confirmed. Any corrections to the bid tabulations are made, if necessary, in accordance with the Standard Specifications and the low bidder is confirmed.

- VI. Award of Contract - Upon final verification of the low bidder, the Director of Public Works or the City/County Engineer forwards a written recommendation for award to the lowest and best bidder or rejection of all bids, if necessary, to the (agency official).
- VII. Execution of Contract - The City Council/County Commissioners authorize the award or reject all bids. When the project is awarded by the City Council/County Commissioners, the Engineering Department so notifies the successful bidder in writing that he has been awarded the contract. The Engineering Department prepares the necessary documents and forwards them to the City/County Clerk's Office for execution by the successful bidder and the proper officials of the City/County.
- VIII. Commencement of Work - Work commences as required in the provisions of the contract.
- IX. Forfeiture of Contract - Should the contractor at any time refuse or neglect to supply a sufficiency of properly skilled workmen or of material of the proper quality, or fail in any respect to prosecute the work with promptness and diligence, or fail in the performance of any of the agreements herein contained, the City/County may at its option, after giving 10 days written notice to the contractor, provide such sufficiency of labor or materials and deduct the cost thereof from any monies due or thereafter to become due under the contract.

In the event of such refusal, neglect, or failure, the City/County may, by written notice to the contractor and his surety or his representatives, or, if the contractor abandons the work undertaken under the contract, the City/County may, at its option, with such written notice to the surety and without any written notice to the contractor, transfer the employment of said work from the contractor to the surety. Upon receipt of such notice, the surety shall enter upon the premises and take possession of all materials, tools and appliances thereon for the purpose of completing the work included under this contract and employ by contract or otherwise, any person or persons to finish the work and provide the material therefore, without termination of the continuing full force and effect of the contract.

In case of such transfer of employment to the surety, the surety shall be paid in its own name on estimates covering the work subsequently performed under the terms of the contract and according to the terms hereof, without any right of the contractor to make any claim for the same or any part thereof. In lieu of the foregoing, if the City/County so elects, it may terminate the employment of the contractor for said work and enter upon the premises and take possession of all materials, tools and equipment thereon for the purpose of completing the work included under the contract and employ by contract or otherwise, any persons to finish the work and provide the materials therefore.

In the case of the discontinuance of employment by the City/County as aforesaid, the contractor shall not be entitled to receive any further balance of the amount to be paid under this contract until the work shall have been fully finished. At this time, if the unpaid balance of the amount to be paid under this contract exceeds the expense incurred by the City/County in finishing the work and all damages sustained or which may be sustained by the City/County by reason of such refusal, neglect, failure, or discontinuance of employment, such excess shall be paid by the City/County to the contractor. If such expense and damages shall exceed the unpaid balance, the contractor and his surety and each thereof shall be jointly and severally liable therefore to the City/County and shall pay the difference to the City/County.

- X. **Administering Contract** - Administration of the contract is the responsibility of the City/County Engineer. The City/County Engineer will provide sufficient personnel to insure project control and inspection in accordance with plans and specifications, and that the City/County has procedures to provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis for all projects. The State and FHWA shall provide additional inspection personnel as required by agreement.

The City/County Engineer will maintain records of project inspection, payment items and all necessary reporting data. Work project records, pay items, project schedule, survey and inspection control, material records and related information are maintained on file at the City/County Engineer's Office for review by auditors, engineers and inspecting agencies from the State, Federal Government and other authorized personnel for a minimum of three (3) years following project completion.

- XI. **Supervision of Projects** - In all phases of the plan preparation, specification preparations, field work, funding arrangements, preparation of bid documents and data, submittal of necessary data for approval, opening of bids, certifica-

tion of bids, award of bid, supervision and inspection of the contract and bid progress payments, finalization and construction, final inspection and completion of the contract and retention of records on the overall project are under the supervision of an agency staff member who is a registered professional engineer in the State of Washington or an agency staff supervisor with a registered professional engineer on retainer, and all survey work is performed under the supervision of a registered civil engineer or registered land surveyor in the State of Washington.

XII. Standard Specifications - All work on street projects shall be performed according to the City/County adopted standard specifications which consist of the following:

- A. Standard specifications for Municipal Public Works Construction as prepared by the Washington State Chapter of the American Public Works Association as amended, current edition, (or),
- B. Standard specifications for Road and Bridge Construction, State of Washington, current edition, (and),
- C. Any special provisions that may be prepared for any given project.

XIII. Federal-aid Projects - Specific items that would be included relating directly to Federal-aid projects are as follows:

- A. Federal-aid projects shall be previously approved in writing by the approving authority prior to being advertised at least once each week for a minimum of three weeks prior to opening of bids as follows:
 - 1. Projects will be advertised in the following publications:
 - a. Local newspaper (official legal publications for the agency) .
 - b. Other newspapers to give widest possible state or areawide coverage commensurate with the size of the project. If item (a) achieves the proper coverage, no further publication is required.
 - 2. Copies of plans, specifications and contract documents will be furnished to Offices of the Associated General Contractors (at locations where advertising, above, receives widest distribution) and to Minority Contractor Associations.
- B. For all Federal-aid projects, bidding opportunities, on a nondiscriminatory basis, shall be afforded to all qualified bidders regardless of race, sex, color, or national origin. No public agency shall be permitted to bid in competition or to enter into sub-contracts with private contractors.

The City/County does not pre-qualify bidders. However, if the apparent low bidder has not already been determined qualified, the City/County shall afford 10 days after notification for the low bidder to provide evidence

for evaluation as to capability to perform the work. The evaluation may include consideration of experience, personnel, equipment, financial resources as well as performance record and the information should be sufficient to enable the bidder to obtain the required qualification rating prior to the award of the contract.

Qualification must, as a minimum, consist of bonding capability to the amount of the contract and meeting licensing requirements of State law. The City/County may include additional requirements.

No bidder shall be disqualified or prevented from competitive bidding by restricting the purchase of a surety bond or insurance policy from any surety or insurer outside the State and authorized to do business in the State.

Should an apparent low bidder not be qualified to do the work, the recommendation as to the nonqualifications of the low bidder shall be forwarded to the approving authority for approval.

The City/County will comply with the Standard DOT Title VI Assurances by the inclusion of the following language in the solicitations for bids:

"The City/County of Kirkland hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for an award."

- C. Should addenda be necessary during the advertising period to correct or add something to the bid or plan data, such addenda will be submitted to the approving authority prior to transmittal to the individual contractors holding the plans, specifications and bid document data. Each bidder shall present with his bid written notice of his receipt of each addendum received. All bids shall be publicly opened and announced.
- D. If any bid received is not read, the name of the bidder and the reason for not reading the bid shall be publicly announced at the bid opening.
- E. Tabulation of bids, certified by the City/County Engineer, shall be submitted to the approving authority and shall show item details for the three lowest bids and the total amount of all other acceptable bids.
- F. The City/County will receive written concurrence from the approving authority in the award of all Federal-aid contracts. The contract shall be awarded within 30 days following bid opening to the lowest

responsible bidder following concurrence. If the City/County determines that the lowest bidder is not qualified, the next low bidder may be submitted to the approving authority for concurrence accompanied by adequate justification. A proposal to reject all bids received must be submitted with justification to the State for concurrence.

- G. In the event that the City/County chooses to make use of a tied bid to combine a Federal-aid project and a City/County financed project in one contract, the City/County will do so only where the conditions and size of the project are so similar that the unit costs on the Federal-aid project will not be increased by such combination of projects. In such cases, like quantities will be combined in the proposal to avoid the possibility of unbalancing the bids in favor of either of the projects in the combination.

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
CERTIFICATION ACCEPTANCE QUALIFICATION AGREEMENT

AGENCY City of Kirkland AGENCY NO. 0625

The noted agency hereby agrees to comply with the following requirements when developing all projects on Federal-aid highway systems except the Interstate System:

1. The Local Agency Guidelines and all policies and procedures promulgated by the Washington State Department of Transportation which accomplish the policies and objectives set forth in Title 23, U. S. Code, Highways and the regulations issued pursuant thereto.
2. The overall approval authorities and conditions will be as follows:
 - a) The designs will be reviewed and approved by the following State of Washington registered professional civil engineer Director of Public Services
Position Title Only
 - b) The hearing's findings (if required) will be reviewed and approved by the following official or officials Director of Public Services
Position Title or Titles Only
 - c) The contract plans, specifications and estimate of cost will be reviewed and approved by the following State of Washington registered professional engineer Director of Public Services
Position Title or Titles Only
 - d) Agreements will be signed by the following responsible local official:
 - (1) Railroad City Manager
Position Title Only
 - (2) Utility City Manager
Position Title Only
 - (3) Consultant City Manager
Position Title Only
 - (4) Technical Services City Manager
Position Title Only
 - e) The award of contract will be signed by the following responsible local official
City Manager
Position Title Only

All State advertisement and award of contracts will be signed by the appropriate WSDOT official.

f) All projects will be constructed in conformance with the current Standard Specifications for Municipal Public Works Construction of State of Washington Standard Specifications for Road and Bridge Construction and such specifications that modify these specifications as appropriate.

g) The contract administration will be supervised by the following State of Washington registered professional civil engineer

Director of Public Services
Position Title Only

h) Materials sampling testing frequency will be accomplished and documents in conformance with the Local Agency Guidelines. Materials testing facilities will be approved by the WSDOT.

3. The noted agency agrees that they have the means to provide adequate expertise and will have support staff available to perform the functions being subdelegated. The support staff may include consultant or State services.
4. The noted agency agrees to submit the names of the approving authorities noted in Section 2 above with each project prospectus.
5. All projects under Certification Acceptance shall be available for review by the FHWA and the State at any time and all project documents shall be retained and available for inspection during the plan development and construction stages and for a 3-year period after the submission of the final voucher for the project.
6. The State Aid Engineer's approval of this Local Agency Certification may be rescinded at any time upon request by the Local Agency or if, in the State Aid Engineer's opinion, it is necessary to do so. The rescission may be applied to all or part of the programs or projects approved in the Local Agency Certification.

Mayor or Chairman

Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved by: _____

State Aid Engineer

Date