

RESOLUTION NO. R- 2768


A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE MAYOR TO SIGN A WASHINGTON STATE DEPARTMENT OF TRANSPORTATION CITY/COUNTY AGREEMENT, DEALING WITH FEDERAL FUNDING FOR IMPROVEMENTS TO BE MADE ON 108TH AVENUE N.E. BETWEEN SOUTH CITY LIMIT AND N.E. 52ND STREET.

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

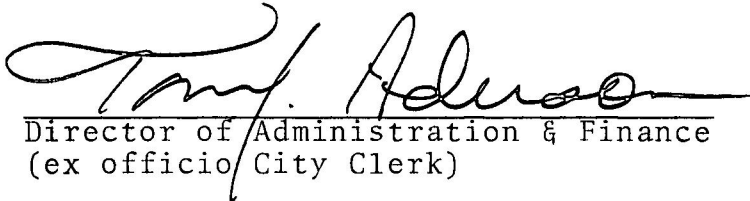
Section 1. The Mayor is hereby authorized to sign that certain Washington State Department of Transportation City/County Agreement, dealing with Federal funding for an improvement to be made on 108th Avenue N.E., between South City Limit and N.E. 52nd Street. A copy of said agreement is attached to the original of this Resolution, and by this reference is fully incorporated herein.

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)



AGENCY <b>City of Kirkland</b>	<b>WASHINGTON STATE DEPARTMENT OF TRANSPORTATION CITY/COUNTY AGREEMENT</b>	FEDERAL AID PROJECT NUMBER
DATE		AGREEMENT NUMBER

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) the policies and procedures promulgated by the Washington State Department of Transportation and, (4) the Federal-aid Project Agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein, without written authority by the State, subject to the approval of the Federal Highway Administrator. The balance of the total project cost shall be the obligation of the Local Agency.

**PROJECT DESCRIPTION**

Name 108th Avenue NE Length 0.60  
 Termini South city limit to NE 52nd Street  
 Description of Work Widen paving, curb & gutter, sidewalk grading and drainage

W.S.D.O.T. USE ONLY		
Prog.	F.C.	C.S.
FHWA PE Appr. Date		
FHWA RW Appr. Date		
FHWA Const. Appr. Date		
Work Order Accounting Plan	<input type="checkbox"/> RO <input type="checkbox"/> L <input type="checkbox"/>	
	<input type="checkbox"/> RW <input type="checkbox"/> OO <input type="checkbox"/>	
	No. Auth. By	Date
	No. Auth. By	Date

TYPE OF WORK	ESTIMATE OF FUNDING		
	(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
P.E. a. Agency Work	22,500	3,830	18,670
b. State Services			
c. Other			
d. Total Prelim. Eng. Costs & Estimate	22,500	3,830	18,670
Right-of-Way e. Agency Work			
f. State Services			
g. Other			
h. Total R/W Cost Estimate			
Construction i. Contract	227,500	38,720	188,780
Engineering { j. Agency Force			
{ k. State Force			
l. Audit			
m. Other			
n. Other			
o. Total Construction Cost Estimate	227,500	38,720	188,780
p. TOTAL COST ESTIMATE OF THE PROJECT	250,000	42,550	207,450

The Federal-aid participation rate in this project will be determined by the Federal Government. The parties expect that it will be 82.98% however, it is understood that the rate may vary. The Local Agency agrees that this agreement is entered without relying upon any representation by the State made outside of this contract, or contained herein, as to what the Federal participation rate will be. It further agrees that it will not condition any future actions with respect to the project covered by this agreement upon past, current, or future representations as to the Federal participation rate. The dollar amount of Federal participation cannot exceed the amount shown in column (3). Costs exceeding the Federally funded portion of this agreement will be provided by the Local Agency.

**CONSTRUCTION METHOD OF FINANCING**

(Check Method Selected)

- STATE AD & AWARD
- METHOD A  Advance Payment - Agency Share of Total Construction Cost (Based on Contract Award) ( )
- METHOD B  Withhold From Gas Tax the Agency's Share of Total Construction Cost (line o., col 2) in the amount of \$ \_\_\_\_\_ at \$ \_\_\_\_\_ per month for \_\_\_\_\_ months ( )
- LOCAL FORCE OR LOCAL AD & AWARD
- METHOD C  Agency Cost Incurred with Partial Reimbursement ( )

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions set forth on the reverse hereof. Adopted by official action on \_\_\_\_\_, 19\_\_\_\_, Resolution/Ordinance No. \_\_\_\_\_

AGENCY OFFICIAL *[Signature]*  
 CHAIRMAN, County Commissioners/Mayor

WASHINGTON STATE  
 DEPARTMENT OF TRANSPORTATION

State Aid Engineer

"DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:"

(a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Agency advising the said labor union or workers' representative of the contractor's commitments under this section 11-2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965 and by the rules and regulations and orders of the Secretary of Labor, or pursuant thereto and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor will include the provisions of this section 11-2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965 so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Agency, WA Dept. of Transportation or Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor, he may request the United States to enter into such litigation to protect the interests of the United States.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

#### XI LIQUIDATED DAMAGES

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 630, Subpart C and Volume 6, Chapter 3, Section 1 of the Federal-aid Highway Program Manual, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the agency from reduction of Federal participation in accordance with this paragraph.

#### XII. FUNDING GROUP ADJUSTMENTS

The Agency agrees that the Federal-aid funds committed for Agency work by this agreement may be transferred between work elements by supplemental agreement, executed by an Agency official or staff member and the State Aid Engineer.

#### XIII TERMINATION FOR PUBLIC CONVENIENCE

The Secretary, Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite Federal funding becomes unavailable through failure of appropriation or otherwise.

(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense; or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources;

(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor; or

(4) The Secretary determines that such termination is in the best interests of the State.

#### XIV VENUE FOR CLAIMS AND/OR CAUSES OF ACTION

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

#### ADDITIONAL PROVISIONS

FIRST AMENDMENT TO  
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION  
CITY/COUNTY AGREEMENT NO. \_\_\_\_\_

Due to a change in the Federal Government's policies with respect to Federal-aid projects such as the one involved in this Agreement and the fact that the Federal Government will no longer obligate funds nor share in the expenses of indirect engineering costs for such projects, it is agreed by the parties that the State will reimburse the Agency only for the Federal share of the project and that the Federal share will not include indirect engineering costs.

AGENCY OFFICIAL

WASHINGTON STATE  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
Chairman,  
County Commissioners/Mayor

\_\_\_\_\_  
State Aid Engineer

\_\_\_\_\_  
Date Executed

\_\_\_\_\_  
Date Executed