

RESOLUTION R 3304

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING AND DIRECTING THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY OF KIRKLAND AN AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION WHEREBY SAID DEPARTMENT WILL PROVIDE RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION SERVICES IN CONNECTION WITH THE NORTHEAST 124TH STREET CONNECTOR PROJECT.

Whereas, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as implemented by the United States Department of Transportation, Chapter 8.26 Revised Code of Washington and Chapter 365-24 Washington Administrative Code establish a uniform policy for the expedient and consistent treatment of owners subjected to land acquisition practices and provide for the fair and equitable treatment of persons displaced in connection with or as a result of public works programs or projects of a state or local public body; and

Whereas, the Washington State Department of Transportation has an established organization to conduct programs and project impact studies, land acquisitions management and relocation assistance programs for compliance with said regulations; and

Whereas, the City of Kirkland desires to obtain such services from the Department of Transportation and the Department is willing to furnish such services to the City of Kirkland and both parties are empowered to enter into a contract for such services pursuant to RCW Chapter 39.34; now, therefore,

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to sign on behalf of the City of Kirkland that certain agreement for aid between the City and the Washington State Department of Transportation, copy of which is attached to the original of this resolution and by this reference incorporated herein.

Passed and approved by the Kirkland City Council in regular, open meeting this 4th day of August, 1986.

Signed in authentication thereof this 4th day of August, 1986.


MAYOR

ATTEST:


DEPUTY
CLERK
Director of Administration & Finance
(ex officio City Clerk)

AGREEMENT FOR AID

This Agreement is made and entered into by and between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION hereinafter referred to as "DEPARTMENT" and City of Kirkland, a municipal corporation hereinafter referred to as "AGENCY."

WHEREAS, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646; 84 Stat. 1894) as implemented by the United States Department of Transportation (49 CFR 25), Chapter 8.26 Revised Code of Washington (RCW) and Chapter 365-24 Washington Administrative Code (WAC) promulgated by Washington State Office of Community Development (OCD), all of which hereinafter referred to as the Regulations, establish a uniform policy for the expedient and consistent treatment of owners subjected to land acquisition practices and provide for the fair and equitable treatment of persons displaced in connection with or as a result of public works programs or projects of a State agency or local public body; and

WHEREAS, the Agency may propose to acquire or to administer the acquisition of real property in connection with public works programs or projects and which programs or projects may necessitate displacement of an individual, a family, business, farm or non-profit organization; and

WHEREAS, the Department has an established organization to conduct programs and project impact studies, land acquisitions management and relocation assistance programs for compliance with the Regulations and the Department is empowered to provide such services pursuant to Chapter 39.34 RCW; and

WHEREAS, the Department, in accordance with its policies, does not desire to perform services for a public agency by entering into or otherwise interfering with competitive bidding by private enterprise in response to advertisement or solicitation by such public agency; and

WHEREAS, the Agency in support of said Department policies, assures the Department that the Agency's assignments and/or requests for services under this agreement will not result from bidding, negotiation or other competition involving private enterprise; and

WHEREAS, the Agency may desire to obtain such services from the Department, and the Department is willing to furnish such services to the Agency, and both deem it in the interest of the public to enter into this agreement;

NOW, THEREFORE, in consideration of the stated premise and in the interest of providing expedient, fair, equitable and uniform treatment of land owners and persons to be displaced by proposed land acquisition projects and pursuant to RCW 8.26.120, the parties hereto agree as follows:

I

GENERAL

A. The Department shall, to its maximum administrative ability undertake to provide the Agency with impact study, appraisal, appraisal review, acquisition, relocation assistance, or property management services described hereinafter, all in accordance with the appropriate elements of Department operating requirements set forth in the Department publication M26-01 (HW), "Right of Way Manual" except where specific operating requirements are otherwise described herein. All such requirements shall conform to the Regulations.

B. The normal work load of the Department shall have priority over any work performed under this agreement. The work performed under this agreement shall be pursued with care and diligence, making every effort to recognize pertinent schedules of the Agency. The Department shall promptly notify the Agency of any hardship or other inability to perform under this agreement including postponement of the Agency's work due to priority given to the Department's work.

C. This agreement may be increased or decreased in scope or character of work to be performed if such change becomes necessary, but, any such change shall be accomplished by written agreement and executed by all parties to said agreement.

D. The Agency shall indemnify and hold the Department harmless from all claims, demands, losses and damages arising out of the performance of this agreement on the part of the Agency or Department; provided, however, nothing herein shall be construed to require the Agency to indemnify and hold the Department harmless against claims or demands arising out of the sole negligence of the Department. It is agreed that the Department, in the course of its performance of services under this agreement, shall be the agent of the Agency. The Agency shall be ultimately responsible for the payment of any claims, demands, lawsuits, or damages arising out of the performance of this agreement by the employees or agents of the Department, *except as herein provided.*

II

WORK ASSIGNMENT/REQUEST

A. Specific assignments shall be made in writing to the Department by the Agency. The Agency shall make such assignments before any negotiations for property acquisition and before any discussion of price with the property owner, when required by the Regulations.

B. The Agency shall furnish the Department with all information which has been compiled by or is available to the Agency concerning the property to be affected by each particular project. Such information shall include, but not be limited to a list identifying each property affected by the project by Parcel number, a

tabulation of improvements on each property, the geographical location and boundaries of each property, and a description of how the project affects each property. The Agency shall furnish the State copies of plan sheets showing limits of parcel rights to be acquired and sufficient engineering data to develop legal descriptions.

C. The Department shall furnish all labor, materials, supplies and incidentals necessary to complete the work assigned by the Agency and shall furnish all information necessary to the conduct of a land acquisition program, at the convenience of the Department.

D. The Department will at its discretion and upon written request from the Agency furnish the following as required;

Impact Studies: Impact studies shall be made and reported in written narrative addressing potential influences by a program or project on land economics, or land use factors, displacement/relocation factors, acquisition costs and relocation plans, as requested.

Appraisal: Property shall be evaluated and value conclusions reported to conform with Department operating requirements. Any request by the Agency for court preparation and testimony will be a separate work assignment request under this agreement and shall be submitted to the Department in a timely manner to provide not less than ninety (90) days advance notice to expected court appearance.

Appraisal Review: Appraisal reports shall be reviewed to conform with Department operating requirements for validity of value conclusions provided such reports are accompanied by a copy of the appraiser's contract or assignment and provided that the Agency (or its agent) has determined that such reports appear to comply with the Agency's procedural requirements and include adequate description of the property appraised, the interest to be acquired and appears to include adequate data supporting said conclusions. The Agency shall be responsible for obtaining any necessary replacements for unacceptable appraisal reports or for obtaining any substantive revisions of inadequate reports where such reports were furnished to the Department by the Agency.

Acquisition: Every reasonable effort will be made to acquire real property by negotiations in accordance with the Regulations. The Department shall attempt to acquire all property within the project limits without commencing condemnation proceedings. A written offer will be presented to each owner at the time price is first discussed for the property. The offer will be documented and retained as part of the parcel file. Parcel by parcel diaries containing adequate written records of the negotiations will be maintained including, but not limited to the following:

1. Date and place of contacts;
2. Persons present;
3. Offers made (actual dollar amounts);

4. Counteroffers made;
5. Reasons settlement could not be reached.

Each request by the Agency shall specify the name of the grantee in whose name the property is to be conveyed. The Department shall provide the Agency with deeds to all property acquired and, wherever possible, instruments to clear encumbrances of title from those deeds. The Department will provide information leading to clearing of encumbrances which the Department cannot clear without legal action. Upon completion of a review of each acquisition by the Department's Title Section, all instruments and materials pertaining thereto will be provided to the Agency. Clearing remaining encumbrances of title and making the actual payment for the property shall be the responsibility of the Agency. Should it become apparent that negotiations for attempted acquisition have reached an impasse and sufficient time has elapsed for a property owner to make a decision, the Department will, either at its direction or upon written request by the Agency, submit to the Agency a condemnation report that will contain a summary of negotiations, amounts of counteroffers, if any, and other historic data relative to such attempted acquisition. The actual filing of condemnation and subsequent litigation shall be responsibility of the Agency.

Relocation Assistance: Relocation assistance services shall be provided to conform with Department operating requirements. All relocation claims presented by displacees will be processed by the Department, but the actual disbursement of monies shall be made by the Agency. As may be assigned by the Agency, the Department will respond to and assist the Agency with an appeal as to relocation assistance benefits filed by an aggrieved displacee, however, the Agency shall remain responsible for any appointment of a hearing officer, the conduct and the records of hearings and for renderings the final decision of the Agency.

Property Management: Effective management will be provided in the name of the Agency for Agency-controlled properties to conform with Department operating requirements.

E. At the completion of the project the Department will, either at its discretion or upon written request by the Agency, turn over to the Agency all records including appraisal and appraisal review reports, acquisition, relocation assistance and property management records pertinent to the work performed by the Department.

III

PAYMENT

The Department shall be paid by the Agency for completed work and for services rendered under the agreement as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies and incidentals necessary to complete the work. The Department acknowledges and agrees that only those costs actually allocable to a project shall be charged to such project.

A. The Department shall be reimbursed in full by the Agency for its direct and related indirect costs accumulated in accordance with its current accounting procedures.

B. Partial payments will be made by the Agency upon receipt of the Agency of billings from the Department. Billings will not be more frequent than one per month. It is agreed that payment of any particular claim will not constitute agreement as to the appropriateness of any item and that at the time of final billing all required adjustments will be made.

C. Upon termination of this agreement as provided in Section V, the Department shall be paid by the Agency for services rendered to the effective date of termination, less all payments previously made. No payment shall be made by the Agency for any expense incurred or work done following the effective date of termination unless authorized, in writing, by the Agency.

D. Final payment of any balance due the Department of the ultimate gross reimbursable amount, prior to the effective date of termination, will be made upon ascertainment of such balance by the Department and certification thereof to the Agency.

IV

NON-DISCRIMINATION

The Department shall comply with RCW Chapter 49.60. With respect to the work to be performed by the Department during the contract, the Department shall not discriminate on the grounds of race, color, sex, national origin, marital status, age, or the presence of any sensory, mental, or physical handicap in the selection and retention of agents, subcontractors, including procurement of services or materials, or leases or equipment. The Department shall comply with Title VI of the Civil Rights Act of 1974, U.S.C. 2000d-d4 and related statutes.

V

COMMENCEMENT AND TERMINATION OF AGREEMENT

The work is of a continuing nature and will be in force as of the date of this agreement. Either party may terminate this agreement at any time upon not less than sixty (60) days written notice to the other party with or without cause. This agreement shall terminate three years from the date of execution hereof unless otherwise terminated or unless extended in writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____.

APPROVED AS TO FORM:

City of Kirkland, a municipal corporation

_____, 19____.

BY: _____

Attorney for City of Kirkland

APPROVED AS TO FORM:

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

_____, 19____.

BY: _____

Assistant Attorney General

C. L. Slemmer,
Project Development Engineer