

RESOLUTION NO R-3705

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN AN INTERLOCAL AGREEMENT WITH THE ROSE HILL WATER DISTRICT OF KING COUNTY FOR CONSTRUCTION AND MAINTENANCE OF A 14.3 MILLION GALLON RESERVOIR.

WHEREAS, the City Council has determined from the advice of the Public Works Department that the City has a significant need for additional water storage to meet current and future demand; and

WHEREAS, the City Council has further determined it is more economical for the City to jointly construct and own with the Rose Hill Water District of King County, a 14.3 million gallon reservoir to meet current and future water storage needs for both water utilities, rather than to construct a separate reservoir, and

WHEREAS, the City Council finds it desirable and in the City's best interest to enter into the attached interlocal governmental agreement for such joint construction and ownership of a reservoir, now, therefore

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

Section 1 The City Manager is hereby authorized to sign on behalf of the City of Kirkland, that certain interlocal agreement between the City of Kirkland and the Rose Hill Water District of King County, as set forth in Exhibit A to this Resolution and by this reference incorporated herein.

PASSED by majority vote of the Kirkland City Council in regular, open meeting on the 5th day of November, 1991.

SIGNED in authentication thereof on  
the 5th day of November, 1991.

  
MAYOR

ATTEST:

  
City Clerk

o-r\reservo1/rjp ksk

October 16, 1991

**Interlocal Governmental Agreement  
for Construction of 14.3 Million Gallon Reservoir**

The City of Kirkland (hereinafter the "City") and Rose Hill Water District (hereinafter the "District"), both municipal corporations, in accordance with the Interlocal Cooperation Act (Ch. 39.34 RCW) do hereby agree as follows:

1. Purpose.

The purpose of this agreement is to provide for the construction and maintenance of a 14.3 million gallon reservoir (hereinafter the "Reservoir"), which will be jointly owned by both parties. Both parties operate water utilities and are in need of additional water storage to meet current as well as future needs. Additional water storage is needed by both parties for the protection of public health and welfare during emergencies and to avoid peak demand charges under the water supply contract with the City of Seattle, which provides water supply to the parties. The parties have determined that it is more advantageous to them to build a jointly owned common storage facility, water main and appurtenances than to separately build facilities.

2. The Project

The parties hereby agree to construct a 14.3 million gallon water reservoir on property owned by the District north of Mark Twain Park in Kirkland and legally described in Exhibit A hereto and to construct water mains and appurtenances necessary for the operation of the Reservoir, pursuant to the plans and specifications prepared at the direction of the District and set forth in Exhibit B hereto (hereinafter called "the Project"). The Project shall be constructed in accordance with the conditions of the permit

and variance issued by the City of Kirkland under its File No. IIA-90-73 and A-91-21 and all applicable building codes.

3. The Construction Procedure.

a. District as Contracting Agency

The District shall serve as the contracting agency for the parties and shall generally manage and oversee the construction of the Project.

b. Contractor Selection.

The District shall call for bids for the construction of the Project and shall provide the City with copies of all bids it receives. The District shall, in consultation with the City, select the lowest, responsible bid or bids for the various portions of the work. The District shall then enter a contract in its name only with the agreed upon contractor or contractors, as the case may be, to construct the Project. The District shall administer the construction contract(s).

c. Project Engineer.

The engineer for the design and contract administrator for the Project shall be ST Engineering, Inc., unless the parties agree otherwise.

d. Change Orders

The District may approve changes in the construction contracts, provided that if any change order would cause the contract price to increase by more than \$25,000 or cumulatively more than two percent (2%) of the original contract amount on any work, the City's prior consent to the change orders shall be obtained, which consent shall not be unreasonably withheld. The District shall provide the City with copies of all change orders regardless of the dollar amount of the change order.

e. Method of Payment.

The District shall deposit advances from the Public Works Trust Fund loan and contributions from the parties into a separate account maintained in the District's name with the King County Office of Finance and entitled

"Joint Construction Fund." Except for costs paid by the District prior to the date of this Agreement, the Joint Construction Fund shall be the sole fund for payment of Project costs, including but not limited to, engineering (preliminary and construction), legal, and all other Project costs. The parties shall meet on a monthly basis, and more frequently if necessary, to review and agree upon disbursements from the Joint Construction Fund so that timely progress payments can be made to Project contractors. City approval of disbursements shall be evidenced by the signature of the City representative. Upon such approval the District is authorized to cause warrants to be issued and monies withdrawn from said account to make progress payments to the contractor(s) and to pay other expenses and costs related to the work.

f. Accounting.

The District shall provide the City with monthly accountings of all receipts and disbursements from the Joint Construction Fund, including necessary backup therefore, during the course of construction. City acceptance of accountings shall be evidenced by the signature of the City representative.

g. Final Acceptance.

The contractor's work shall not be given final acceptance until it is approved in writing by both parties. Approval for final acceptance shall not be unreasonably withheld by either party

4. Cost Sharing.

a. The City shall contribute toward the cost of the work set forth in Schedule B-2 in Exhibit B hereto a sum equal to \$10.00 multiplied by the number of lineal feet of 16-inch water main installed, which sum is estimated to be \$32,000. The balance of the cost of the work in Schedule B-2 shall be paid by the District. Schedule A, Schedule B-1 and the Reservoir as described in Exhibit B shall be paid by the parties in the following shares:

City	50.39%
District	49.61%

The parties will also share in the same percentages in the cost of constructing a 12-inch main on N.E. 116th Street from 120th N.E. to PRV station at 126th N.E. and including two (2) new PRV stations.

b. Costs of the Project to be shared by the parties pursuant to this section 4 shall include all costs and expenses reasonably related to the design, permitting and construction of the Project, including but not limited to:

(1) Engineering and landscape architect fees for the design and any modifications in design of the Project, including fees incurred before the date of this agreement;

(2) All costs of obtaining permits, including reproductions of drawings and transparencies, application fees, production of a model, legal and consultant fees, and copying costs;

(3) All costs to comply with mitigation measures and other conditions of the permit issued for the Project by the City of Kirkland under File No. IIA-90-73 and A-91-21, including, but not limited to the planting of trees and shrubs in Mark Twain Park, painting of trees on the tank and the creation of a fund of \$10,000 for future plantings directed by the City Planning Department, but excluding connection charges for the irrigation system in Mark Twain Park, which the District shall waive, and the improvements to Mark Twain Park for which the City has pledged up to \$52,000.

(4) Costs of construction of all improvements described in the plan and specifications set forth in Exhibit B, including the costs of removal, less salvage value, of the existing standpipe and appurtenances and site clearing,

(5) All charges for permits and inspections imposed by any governmental agency;

(6) Fees and charges of engineers, attorneys and other consultants employed as mutually agreed by the parties hereto, in the administration and enforcement of the construction contracts(s) for the Project; and

(7) All costs related to preparing and producing the Environmental Impact Statement for the Project and complying with the State Environmental Policies Act.

c. From and after the date that costs and expenses are eligible for reimbursement under the Public Works Trust Fund loan agreement identified in section 5 below (July 29, 1991), the parties' obligations for cost sharing under sections 4(a) and (b) shall extend only to Project expenditures paid from the Joint Construction Fund. Project expenditures made by the District subsequent to said reimbursement eligibility date shall, for purposes of this subsection, be considered as having been paid from the Joint Construction Fund. For the time prior to said reimbursement eligibility date, the parties' obligations for cost sharing under sections 4(a) and (b) shall be limited to the expenditures itemized in Exhibit C hereto and incorporated herein by reference. The City shall reimburse the District for the City's share under Exhibit C by January 31, 1992.

d. At all times material hereto, the parties' shall separately bear their own District and City staff time and incidental expenses.

5. Public Works Trust Fund Loan.

a. The District has entered into a loan agreement with the State of Washington for a two million dollar loan from the Public Works Trust Fund to partially finance the Project. A copy of said agreement is attached hereto as Exhibit D and incorporated by reference (and herein called the "P WTF loan Agreement"). The District shall apply loan proceeds to the cost of the Project to the extent permitted under the P WTF Loan Agreement. Costs of the Project which are not covered by the loan proceeds shall be paid by

contributions from the parties to the Joint Construction Fund pursuant to the percentages set forth in section 4 above.

b. The City shall reimburse the District 50.39% of the principal and interest payments as they become due under the P WTF Loan Agreement on those portions of the loan as set forth in section 4 (a) hereinabove. Both parties shall indemnify the other for their financial obligations resulting from the P WTF Loan Agreement to the extent of the percentages of their respective cost sharing as set forth in section 4 (a) hereinabove.

6. Contributions by Parties.

The parties shall on a monthly basis agree on needed monthly contributions to the Joint Construction Fund and the dates of those contributions to fund costs of the Project not covered by P WTF loan proceeds. The City shall not be required to make any contribution before January 1, 1992. Should either party fail to make a contribution to the Joint Construction Fund when due, interest shall accrue and be due to the other party on the amount of the delinquent contribution at the rate of twelve percent (12%) per annum from the date of delinquency

7. Use and Operation of Reservoir.

a. Joint Benefit.

After its completion, the jointly owned 14.3 million gallon Reservoir shall be operated in such a manner that the parties enjoy joint benefit from it. Its operation shall be integrated into the operation of the pump stations, 11.2 million gallon reservoir, and the telemetry, water mains, meters and valves, which convey water from the Tolt pipeline into the water distribution systems of the respective parties. The District shall be responsible for supervising the daily operation of the Reservoir. Each party shall be entitled to use the new reservoir as though it constructed its own solely owned reservoir.



b. Coordination with Other Agreements.

It is the intent of the parties that the Project and this agreement will enhance the delivery of water under their prior agreements, and this agreement is not intended to terminate or supersede any prior agreement for the sale of water by the District to the City or for the ownership and operation of the existing 11.2 million gallon reservoir

c. Sharing of Costs of Repair and Maintenance.

The cost of repair and maintenance of the 14.3 million gallon reservoir shall be paid by the parties in shares equal to the percentages for cost sharing set forth in paragraph 4 (a) above.

8. Public Works Trust Fund Loan Proceeds and Joint Construction Fund Investment Income

Interest earned on P WTF loan proceeds and all other interest derived from investment of money in the Joint Construction Fund shall accrue to the benefit of the parties in accordance with the provisions of the P WTF loan agreement and consistent with the percentages of their respective cost sharing obligations set forth in section 4 (a) above.

9. Indemnification and Insurance.

a The District shall require contractors building the Project to have the City of Kirkland named as an additional insured on all policies of insurance to be maintained by contractor(s) under the terms of any Project contract(s) with the District. Contractors building the Project shall be required to maintain Builder's Risk Insurance and Public Liability Insurance as required under the terms of the specifications set forth in Exhibit B.

b. The District shall require contractors building the Project to indemnify, defend and save harmless the City and its officers, agents, or employees, from any claim, real or imaginary, filed against the City or its officers, agents or employees, alleging damage or injury arising out of the contractor's participation in the Project.

c. Any damage to the Project or liability arising out of the Project which is not covered by a contractor's insurance and/or performance bond shall be paid by the parties in proportion to their percentage contribution of the cost of construction as set forth in section 4 (a) above.

10. Reservoir Site and Damage to Reservoir.

The parties acknowledge that the property on which the Reservoir is to be constructed is now and shall continue to be owned by the District, provided that a portion of the property shall be made available for park use under the terms of the permit issued to the District. In the case of damage to or destruction of the Reservoir, the expense of returning the Reservoir to its original condition shall be borne by each of the parties in the same proportion as they shared in its construction. In the event the Reservoir should be destroyed or irreparably damaged, the parties may, at their option, mutually agree to build a new facility to replace it. In the event the parties do not agree to rebuild the damaged facility or in the event it becomes no longer feasible to make use of the Reservoir as a joint storage facility, its use shall terminate. In the event part or all of the damaged or destroyed Reservoir is sold, proceeds from the sale shall be applied first to the expense of clearing the Reservoir from the site and any proceeds remaining shall be shared by the parties in the same proportion as they shared in the cost of construction.

11. Notices and Other Communications.

All notices and other formal communications to be delivered under this Agreement shall be mailed or delivered to the following:

City of Kirkland  
Jim Arndt, Public  
Works Director, or  
his designee  
123 Fifth Avenue  
P O. Box 787  
Kirkland, WA 98083

Rose Hill Water District  
Bill Skahan, Manager, or  
his designee  
13013 N E. 65th Street  
P.O. Box 539  
Kirkland, WA 98083

provided, however, the parties may change their respective designation of representatives by written notification to one another.

12. General Provisions.

a. Attorneys Fees.

In any legal action between the parties concerning a dispute arising out of this agreement, the prevailing party shall be entitled to an award of reasonable attorneys fees and court costs.

b. Entire Agreement.

This writing constitutes the entire agreement between the parties concerning the construction of the Project.

c. Date of Agreement.

The date of this agreement is November \_\_\_\_, 1991.

Execution of this agreement by the undersigned representatives of each party has been authorized by Ordinance No. \_\_\_\_\_ of the City of Kirkland and Resolution No. \_\_\_\_\_ of the Board of Commissioners of Rose Hill Water District.

CITY OF KIRKLAND

ROSE HILL WATER DISTRICT

By \_\_\_\_\_  
City Manager

\_\_\_\_\_  
President of the Board  
of Commissioners

By \_\_\_\_\_  
Clerk

By \_\_\_\_\_  
Secretary of the Board  
of Commissioners

pw\reservoir/rjp kak

Exhibit A  
Interlocal Governmental Agreement  
for Construction of 14 3 Million Gallon Reservoir

The north half of the northeast quarter of the northeast quarter of the southeast quarter of Section 33, Township 26 North, Range 5 East W.M.

EXCEPT the west 180 feet thereof; and  
EXCEPT the west 192 feet thereof.

SUBJECT TO easement for road purposes over the north 30 feet of the said property as reserved in deed dated April 29, 1933, recorded under Auditor's File No. 2851566; and

SUBJECT TO easement over the said 30 feet as granted in deed bearing the same date as the within instrument in favor of the west 180 feet excepted above.

Situated in King County, Washington.

N:\CLIENTS\ACES\EXHIBIT A.DOC

Exhibit B to  
Interlocal Governmental Agreement  
for Construction of 14.3 Million Gallon Reservoir

The Project is described in the following documents and plans incorporated herein by reference:

1. Rose Hill Water District Specifications, Bid and Contract Documents for 1991 Capital Improvement Project Schedule A, Schedule B-1 and Schedule B-2 prepared by ST Engineering, Inc. and dated September, 1991.
2. Rose Hill Water District 1991 Specifications, Bid and Contract Documents for 14.3 Million Gallon North Reservoir prepared by ST Engineering and dated September, 1991.
3. Plans for Rose Hill Water District 1991 Capital Improvement Project Schedule A, Schedule B-1 and B-2 prepared by ST Engineering, Inc., consisting of 9 sheets as follows:

<u>Sheet No.</u>	<u>Title</u>
1	Index and Vicinity Map
2	Res. and Storm Drain Lines Plan & Profile
3	Site Plan and Piping Plan
4	Control Vault Mechanical and Structural
5-6	Control Vault-Electrical
7	Water Main Replacement N.E. 107th Pl. and Easements
8	Water Main Replacement 124th Ave. N.E. and N.E. 107th Pl.
9	Water Main Replacement 124th Ave. N.E.

4. Plans for Rose Hill Water District 1991 Capital Improvement Project 14.3 Million Gallon North Reservoir prepared by ST Engineering, Inc. and consisting of 6 sheets as follows:

<u>Sheet No.</u>	<u>Title</u>
1	Index and Vicinity Map
2	Site Plan
3-4	Details
5	Landscaping
6	Sprinkler System

X \CLIENTS\008\EXHIBITS

Exhibit C  
 Interlocal Governmental Agreement  
 for Construction of 14.3 Million Gallon Reservoir  
 Shared Costs Before  
 July 29, 1991

Costs expended through July 29, 1991  
 by Rose Hill Water District

	1988	1989	1990	Jul 29 1991	Total Expended At Jul 29, 91	Kirk %	Kirkland Share
North Reservoir							
-----							
Engineer & Model	2,415 07	52,166 44	66,601 84	71,644 86	192,828 21	50 39%	97,166 14
Legal			40 00	3,763 02	3,803 02	50 39%	1,916 34
Landscape Architect / Photos							
Advertising / Model Modifications		153 15	2,912 00	6,359 44	9,424 59	50 39%	4,749 05
North Reservoir Drainage							
-----							
Engineer	6,575 10	2,464.96			9,040 06	50.39%	4,555 29
Main Replacement							
-----							
1991 Main - Schedule A		9,014 50	2,573 14		11,587 65	50 39%	5,839 02
- Schedule B-1		4,939 65	1,410 01		6,349 66	50 39%	3,199 59
- Schedule B-2		13,157 05	3,755 63		16,912 68	6 99%	1,182 19
						Max \$32,200	
<b>Total</b>	<b>8,990 17</b>	<b>54,784 55</b>	<b>96,665 04</b>	<b>89,506 10</b>	<b>249,945 86</b>		<b>118,607 61</b>

Exhibit D  
Interlocal Governmental Agreement  
for Construction of 14.3 Million Gallon Reservoir

PUBLIC WORKS TRUST FUND

LOAN AGREEMENT

NUMBER PW-5-91-280-053  
Rose Hill Water District

PART I: ENTIRE AGREEMENT

This agreement, and incorporated attachments, contains all terms and conditions agreed to by the DEPARTMENT and the LOCAL GOVERNMENT. An attachment to this agreement, ATTACHMENT I- SCOPE OF WORK, consists of a description of local project activities, certification of the project's useful life, and identification of estimated project costs and fund sources and is, by this reference, incorporated into this agreement as though set forth fully herein. In addition, ATTACHMENT II ATTORNEY'S CERTIFICATION, is by this reference incorporated into this agreement.

The DEPARTMENT and the LOCAL GOVERNMENT have executed this agreement as of the date and year last written below.

DEPARTMENT OF COMMUNITY  
DEVELOPMENT

LOCAL GOVERNMENT

Jim Curran  
Name

William T. Skahan  
Name William T Skahan

Assistant Director  
Title

General Manager  
Title

7-29-91  
Date

July 10, 1991  
Date

Approved as to Form by  
Attorney General

91-0783825  
Taxpayer Identification Number

John J. Ryan  
John J. Ryan  
Assistant Attorney General

9/29/91  
Date



**PART II: INTRODUCTION**

This loan agreement is made and entered into by and between the DEPARTMENT OF COMMUNITY DEVELOPMENT, a department of the state of Washington (referred to as the "DEPARTMENT") on behalf of the PUBLIC WORKS BOARD (referred to as the "BOARD"), and Rose Hill Water District (referred to as the "LOCAL GOVERNMENT")

The DEPARTMENT has received an appropriation from the Washington State Legislature under the authority of Chapter 43 155 RCW to provide financial assistance to selected units of local government for the repair, replacement, reconstruction, rehabilitation, or improvement of bridges, roads, domestic water systems, sanitary sewer, and storm sewer systems. Acting under the authority of Chapter 43.155 RCW, the BOARD has selected the LOCAL GOVERNMENT to receive a Public Works Trust Fund loan for an approved public works project

**PART III. PURPOSE**

The DEPARTMENT and the LOCAL GOVERNMENT have entered into this agreement to undertake a local public works project which furthers the goals and objectives of the Washington State Public Works Trust Fund Program. The project will be undertaken by the LOCAL GOVERNMENT and will include the activities described in ATTACHMENT I: SCOPE OF WORK, as well as in the Public Works Trust Fund Application submitted to the BOARD and postmarked on or before July 21, 1990, by the LOCAL GOVERNMENT and upon which this agreement is based. The assisted project must be undertaken in accordance with PART IV: TERMS AND CONDITIONS, and all applicable state and local laws and ordinances, which by this reference are incorporated into this agreement as though set forth fully herein.

**PART IV: TERMS AND CONDITIONS**

The parties to this agreement agree as follows.

**4 01 Rate and Term of Loan**

The DEPARTMENT, using funds appropriated from the Public Works Assistance Account, shall loan the LOCAL GOVERNMENT a sum not to exceed \$2,000,000. The interest rate shall be three percent (3%) per annum on the outstanding principal balance. The term of the loan shall not exceed 20 years, with the final payment due July 1, 2011.

#### 4.02 Local Project Share

The LOCAL GOVERNMENT pledges an amount of locally-generated revenue not less than ten percent (10%) of the total eligible portion of the project cost not funded by federal or state grants as identified in ATTACHMENT I: SCOPE OF WORK, to be verified at the time of project close-out. Any change in the percentage of locally-generated funds may require an adjustment in the loan amount or interest rate charged, or both. In such event, the LOCAL GOVERNMENT agrees to execute an amendment to this agreement adjusting the loan amount or interest rate, as appropriate.

Local project share must consist of expenditures eligible under WAC 399-30-030(3) and be related only to project activities described in ATTACHMENT I: SCOPE OF WORK. These expenditures may be made up to twelve (12) months prior to the execution of the loan agreement and verified at the time of project close-out. PUBLIC WORKS TRUST FUND MONIES MAY NOT BE USED TO REIMBURSE THE LOCAL GOVERNMENT FOR ANY COSTS INCURRED PRIOR TO EXECUTION OF THIS LOAN AGREEMENT.

#### 4.03 Disbursement of Loan Proceeds

The DEPARTMENT shall issue warrants to the LOCAL GOVERNMENT for payment of allowable expenses incurred by the LOCAL GOVERNMENT while undertaking and administering approved project activities in accordance with ATTACHMENT I: SCOPE OF WORK. In no event shall the total Public Works Trust Fund loan exceed ninety percent (90%) of the eligible actual project costs. The disbursement of loan proceeds shall be initiated by the LOCAL GOVERNMENT on a Washington State Invoice Voucher form provided by the DEPARTMENT. The loan funds will be disbursed to the LOCAL GOVERNMENT as follows:

Within thirty (30) days of the formal execution of this agreement, a sum not to exceed fifteen percent (15%) of the approved Public Works Trust Fund loan shall be disbursed by the DEPARTMENT to the LOCAL GOVERNMENT.

Within thirty (30) days of the execution of a Notice to Proceed which follows the formal award of a construction contract, a sum not to exceed seventy-five percent (75%) of the approved Public Works Trust Fund loan shall be disbursed by the DEPARTMENT to the LOCAL GOVERNMENT, except in the case of engineering services contracts. If the approved project described in ATTACHMENT I: SCOPE OF WORK is solely for the completion of engineering studies, a sum not to exceed seventy-five percent (75%) of the approved Public Works Trust Fund loan shall be disbursed by the DEPARTMENT to the LOCAL GOVERNMENT within thirty (30) days of the execution of a Notice to Proceed following the formal award of a contract for engineering services.

At the time of project completion, a Close-out Report shall be submitted to the DEPARTMENT by the LOCAL GOVERNMENT, certifying total actual project costs. The Close-out Report shall include evidence of submittal to, or copies of the approved closure reports from the Department of Revenue and the Department of Labor & Industries.

The final Public Works Trust Fund loan disbursement shall not bring the total loan in excess of ninety percent (90%) of the eligible project costs or the total of \$2,000,000, whichever is less, nor shall this disbursement occur prior to the completion of all project activities and clearance of all Close-out documents from the Department of Revenue and the Department of Labor & Industries. The Close-out Report shall serve as a contract AMENDMENT for determining the final loan amount, interest rate, and local share.

In the event that the final costs identified in the Close-out Report indicate that the LOCAL GOVERNMENT has received Public Works Trust Fund monies in excess of ninety percent (90%) of eligible costs, all funds in excess of ninety percent (90%) shall be repaid to the DEPARTMENT within thirty (30) days of submission of the Close-out Report

#### 4.04 Interest Earned on Public Works Trust Fund Monies

All interest earned on funds disbursed by the DEPARTMENT and held by the LOCAL GOVERNMENT shall accrue to the benefit of the LOCAL GOVERNMENT and be applied to the eligible costs of the approved project. Benefits shall accrue in one of two ways:

1. Reduce the amount of the Public Works Trust Fund loan.
2. Pay part of the eligible project costs that are in excess of ATTACHMENT I: SCOPE OF WORK estimates. (Overrun of project costs.)

The LOCAL GOVERNMENT shall establish procedures to ensure that all monies received from the Public Works Trust Fund loan can be readily identified and accounted for at any time during the life of this loan agreement. Such procedures shall consist of the establishment of a separate fund, account, sub-account or any other method meeting generally accepted accounting principles.

#### 4.05 Time of Performance

The LOCAL GOVERNMENT shall begin the activities identified within ATTACHMENT I: SCOPE OF WORK no later than October 1, 1991 and reach project completion no later than thirty (30) months after the date of agreement execution.

Failure to perform within the time frame described in the preceding paragraph may constitute default of this agreement and require the

immediate repayment of any loan funds disbursed. In the event of extenuating circumstances, the LOCAL GOVERNMENT may request, in writing, that the BOARD extend the deadline for project completion. The BOARD may, by a two-thirds vote, extend the deadline.

This loan agreement shall be in place during the entire term of the loan regardless of the time of actual project completion.

#### 4.06 Repayment

The first loan repayment under this agreement is due July 1, 1992 and subsequent installments are due on July 1 of each year during the term of the loan. The first repayment under this agreement shall consist of interest only at the rate of three percent (3%) per annum, calculated on a 360-day year of twelve 30-day months, applied to funds received from the DEPARTMENT. Interest will begin to accrue from the date the DEPARTMENT issues each warrant to the LOCAL GOVERNMENT. Subsequent repayments shall consist of 1/19 of the principal plus interest on the unpaid balance of the loan. The final payment shall be an amount sufficient to bring the loan balance to zero.

The LOCAL GOVERNMENT has the right to repay the unpaid balance of the loan in full at any time, and the right to repay at a faster rate than is provided in this agreement, provided that any such payment must equal or exceed the amount normally due on an annual basis.

The LOCAL GOVERNMENT will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the DEPARTMENT and sent to.

Department of Community Development  
Administrative Services Division/Fiscal Unit  
Ninth and Columbia Building  
Mail Stop GH-51  
Olympia, Washington 98504-4151

#### 4.07 Default in Repayment

Loan repayments shall be made to the DEPARTMENT in accordance with Section 4.06 of this agreement. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a penalty of twelve percent (12%) interest per annum calculated on a 360-day year.

Upon default in the payment of any annual installment, the DEPARTMENT may declare the entire remaining balance of the loan, together with interest accrued, immediately due and payable. Failure to exercise its option with respect to any such repayment in default shall not constitute a waiver by the DEPARTMENT to exercise such option for any succeeding installment.

payment which may then be in default. The LOCAL GOVERNMENT shall pay the costs and reasonable legal fees incurred by the DEPARTMENT in any action undertaken to enforce its rights under this section.

#### 4.08 Recordkeeping and Access to Records

The LOCAL GOVERNMENT agrees to keep such records as the DEPARTMENT may require. Such records will include information pertinent to work undertaken as part of the project, including demonstration of compliance with the terms and provisions of this agreement and all applicable state and local laws and ordinances. The LOCAL GOVERNMENT agrees to retain these records for a period of three years from the date of project completion.

The DEPARTMENT and duly authorized officials of the state shall have full access and the right to examine, excerpt, or transcribe any pertinent documents, papers, records, and books of the LOCAL GOVERNMENT and of persons, firms, or organizations with which the LOCAL GOVERNMENT may contract, involving transactions related to this project and this agreement.

#### 4.09 Reports

The LOCAL GOVERNMENT, at such times and in such forms as the DEPARTMENT or the BOARD may require, shall furnish the DEPARTMENT with such periodic reports as it may request pertaining to the activities undertaken pursuant to this agreement, including the Close-out Report, and any other matters covered by this agreement. Failure to file periodic reports as requested may result in termination of this agreement as per Section 4.13.

#### 4.10 Indemnification

The LOCAL GOVERNMENT will defend, protect, indemnify, save, and hold harmless the DEPARTMENT, the BOARD, and the State of Washington from and against any and all claims, costs, damages, expenses, or liability for any or all injuries to persons or tangible property, arising from the acts or omissions of the LOCAL GOVERNMENT or any authorized contractor, or any employees or agents of either in the performance of this agreement, however caused. In the case of negligence of both the DEPARTMENT and the LOCAL GOVERNMENT, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party.

#### 4.11 Amendments, Modifications, and Waivers

Except for an increase in the amount of the loan governed by this agreement or for an extension of the time of performance under Section 4.05, the LOCAL GOVERNMENT or the DEPARTMENT may request an amendment or modification of this agreement. However, such amendment or modification shall not take effect until approved in writing by both the Department and the LOCAL GOVERNMENT and

attached hereto No conditions or provisions of this agreement may be waived unless approved by the DEPARTMENT in writing

#### 4.12 Disputes

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement that is not disposed of by this agreement shall be decided by a panel consisting of a representative of the DEPARTMENT, a representative of the LOCAL GOVERNMENT, and a representative of the BOARD. The panel shall reduce its decision to writing and furnish a copy to all parties to the agreement. The decision of the panel shall be final and conclusive

This clause does not preclude the consideration of questions of law in connection with decisions provided for in the preceding paragraph provided that nothing in this agreement shall be construed as making final the decisions of any administrative official, representative, or board on a question of law

#### 4.13 Termination for Cause

If the LOCAL GOVERNMENT fails to comply with the terms of this agreement, or fails to use the loan proceeds only for those activities identified in ATTACHMENT I: SCOPE OF WORK, the DEPARTMENT may terminate the agreement in whole or in part at any time. The DEPARTMENT shall promptly notify the LOCAL GOVERNMENT in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Upon termination of the loan agreement, the DEPARTMENT shall declare the entire remaining balance of the loan, together with any interest accrued, immediately due and payable.

#### 4.14 Governing Law and Venue

This agreement shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this agreement shall be the Superior Court of Thurston County, Washington.

#### 4.15 Severability

If any provision under this agreement or its application to any person or circumstances is held invalid by any court of rightful jurisdiction, this invalidity does not affect other provisions of the agreement which can be given effect without the invalid provision

#### 4.16 Project Completion

The DEPARTMENT will require and notify the LOCAL GOVERNMENT to initiate a Close-out Report when the activities identified in ATTACHMENT I: SCOPE OF WORK are completed. The LOCAL GOVERNMENT will provide the following information to the DEPARTMENT:

1. A description of the actual work performed, in addition to a certified statement of the actual dollar amounts spent, from all fund sources, in completing the project as described.
2. Certification that all costs associated with the project have been incurred. Costs are incurred when goods and services are received and/or contract work is performed.
3. Evidence of submittal to, or copies of the approved closure reports from the Department of Revenue and the Department of Labor & Industries, certifying that all sales taxes have been paid and appropriate industrial insurance and prevailing wages have been paid.

#### 4.17 Project Close-out

In accordance with Section 4.03 of this agreement, the LOCAL GOVERNMENT will submit, together with the Close-out Report, a request for a sum not to exceed the final ten percent (10%) of the loan amount. This disbursement shall not occur prior to the completion of all project activities and clearance of all Close-out documents from the Department of Revenue and the Department of Labor & Industries. The LOCAL GOVERNMENT shall be responsible to ensure compliance with the Department of Revenue and the Department of Labor & Industries requirements by their contractor(s). All releases and certifications shall be provided to the DEPARTMENT no later than six months after the submission of required documents referenced in Section 4.16.

#### 4.18 Audit

Audits of the LOCAL GOVERNMENT'S project activities may be conducted by the Municipal Division of the State Auditor's Office in accordance with state law and any guidelines the DEPARTMENT may prescribe. Payment for the audit shall be made by the LOCAL GOVERNMENT.

#### 4.19 Project Signs

If the LOCAL GOVERNMENT displays, during the period covered by this agreement, signs or markers identifying those agencies participating financially in the approved project, the sign or marker must identify the Washington State Public Works Trust Fund as a participant in the project.

**PART V. SPECIAL ASSURANCES**

The LOCAL GOVERNMENT assures compliance with all applicable state and local laws, requirements, and ordinances as they pertain to the design, implementation, and administration of the approved project. Of particular importance are the following.

**5 01 RCW 43 155.060**

The LOCAL GOVERNMENT shall comply with the provisions of RCW 43.155.060 regarding competitive bidding requirements for projects assisted in whole or in part with money from the Public Works Trust Fund program.

**5 02 WAC 399-30-030(3)**

The LOCAL GOVERNMENT assures compliance with WAC 399-30-030(3) which identifies eligible costs for projects assisted with Public Works Trust Fund loans.

**5 03 Repayment Account**

The LOCAL GOVERNMENT shall repay the loan solely from utility revenues, general obligation revenues, or a combination thereof, and identified as required by Section 4.04. The name of the fund, account, or sub-account shall be Construction Fund.

**5 04 Utility System Optional Repayment and Debt Parity**

In accordance with Section 4.06 of this agreement, the LOCAL GOVERNMENT shall be obligated to make all such repayments only from the gross revenue of the \_\_\_\_\_ Utility after the payment of and interest on any outstanding revenue bonds and bonds issued in the future on a parity therewith which constitute a lien or charge on that gross revenue.

Nothing in this section shall absolve the LOCAL GOVERNMENT of its obligation to make loan repayments when due, and to adjust rates, fees, or surcharges, if necessary, to meet its obligations under this agreement.

UTILITY SYSTEM OPTION  
AGREED TO BY:

\_\_\_\_\_  
Department of  
Community Development

  
\_\_\_\_\_  
LOCAL GOVERNMENT



PUBLIC WORKS TRUST FUND  
ATTACHMENT 1 SCOPE OF WORK  
PW-5-91-280-053

20 yr  
10 % match  
3 % rate

RECEIVED  
FEB 19 1991  
PUBLIC WORKS

Rose Hill Water District  
(Jurisdiction)

Construction of a 14.3 MG storage reservoir and 1991 water main replacement program  
(Project Title)

- 1 Provide a clear description of the project to be financed in part by a Public Works Trust Fund loan (attach an additional sheet if necessary)

Construction of a 14.3 MG Steel above ground Reservoir  
Reservoir will be 127' high and 154' in diameter  
Construction of 5130 lineal feet of 16" D I  
transmission main, 1035 lineal feet of 8" D I main, 560  
lineal feet of 2" PVC main

Relocation of an existing 2000 GPM below ground pump station

- 2 The term for this loan will be based on an engineer's certification of the expected useful life of the improvements, as stated below, or 20 years, whichever is less. If the local government prefers the term of its loan to be less than either 20 years or the useful life of the improvements, the preferred loan term should be indicated  
20 years

- 3 I, KATSUMI TANING, licensed engineer, certify that the average expected useful life for the improvements described above is 20 years

Signed *Katsumi Taning*

Date 2/17/91

Telephone (206) 822-6036

# ROSE HILL WATER DISTRICT 1991 CONSTRUCTION ESTIMATE 3% LOAN

	TOTAL	ROSE HILL WATER DISTRICT			CITY OF KIRKLAND			CITY OF REDMOND	
		1991-1992 COST	TOTAL DISTRICT	PUBLIC WORKS	1991-1992 COST	TOTAL CITY	PUBLIC WORKS	OWE RHWD	OWE KIRKLAND
SCHEDULE A 14.3 MG RESERVOIR (Building Cost Share 49.57% RHWD 50.43% Kirkland)	\$3,696,000  (\$1,563,000)	\$774,779	\$774,779		\$788,221	\$788,221		\$58,883	\$59,905
Public Works Trust Fund Participation in 14.3MG Reservoir Would be for Cost of 7.0MG Reservoir									
7.0 MG RESERVOIR	[(2,133,000)]	\$105,733	\$1,057,328	\$951,595	\$107,567	\$1,075,672	\$968,105	\$80,357	\$81,751
SCHEDULE B-1	\$172,100	\$30,093	\$86,050	\$55,957	\$30,092	\$86,050	\$55,958		
SCHEDULE B-2	\$457,800	\$115,010	\$425,600	\$310,590	\$3,220	\$32,200	\$28,980		
<b>TOTAL</b>	<b>\$4,325,900</b>	<b>\$1,025,615</b>	<b>\$2,343,757</b>	<b>\$1,318,142</b>	<b>\$929,100</b>	<b>\$1,982,143</b>	<b>\$1,053,043</b>	<b>\$139,240</b>	<b>\$141,656</b>

Rose Hill Water District	\$1,025,615	+	\$1,318,142	<i>3% Loan from Public Works Trust Fund</i>
City of Kirkland	\$929,100	+	\$1,053,043	<i>3% Loan from Public Works Trust Fund</i>
	<b>\$1,954,715</b>		<b>\$2,371,185</b>	<i>Maximum Available is \$2 Million</i>
City of Redmond to pay Rose Hill Water District \$139,240 and to Kirkland \$141,656 <b>PWTF REQUIRES 10% MATCH FOR 3% LOAN</b>				

Note Site cost not considered

Revised 2/11/91  
Revised 2/14/91

SCOPE OF WORK

Page 2

PW-5-91-280 053

4 Estimated Project Timetable

(based on the possible execution of a Loan Agreement by April 1, 1991)

Completion of Engineering May 1991 (date)  
 Awarding Construction Contract June 1991 (date)  
 Completion of Construction June 1992 (date)

\*

5 Estimated Project Costs

Preliminary Engineering Report  
 Design Engineering  
 Land or Right-of-Way Acquisition  
 Sales or Use Taxes  
 Other Fees  
 Inspection/Construction Engineering  
 Start-up Costs  
 Financing Costs  
 Contingency  
 Construction  
 TOTAL ESTIMATED PROJECT COSTS

	(Include expenses)	(Permit)
\$ 110,000		
<del>125,000</del>	120,000	
<del>290,000</del>	143,000	
87,000	77,000	
<del>830,000</del>		
3,300,000	175,000	
<u>\$4,242,000</u>	<u>2,200,000</u>	

6 Anticipated Fund Sources

Public Works Trust Fund Loan

\$2,000,000

Note The loan cannot exceed the amount identified above Local Participation, not less than 10% from

General Funds  
 Capital Reserves  
 Other Fund \_\_\_\_\_  
 Rates-  
 Assessments (LID, RID, ULID)  
 Special Levies  
 Federal Funds from

<del>1,200,000</del>	128,000
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
1,042,000	92,000

Other State Funds from

Other (identify source)  
City of Kirkland

TOTAL FUNDS

\$4,242,000 - 2,200,000

\* (str change for the amount)

PUBLIC WORKS TRUST FUND

ATTACHMENT II ATTORNEY'S CERTIFICATION

I, Kenneth Davidson, hereby certify

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the Rose Hill Water District (the LOCAL GOVERNMENT), and

I have reviewed Loan Agreement PW-5-91-280-053 to be executed between the LOCAL GOVERNMENT and the Department of Community Development (the DEPARTMENT), and

I have also examined any and all documents and records which are pertinent to the loan agreement, including the application requesting this financial assistance

Based on the foregoing, it is my opinion that

- 1 The LOCAL GOVERNMENT is a public body, properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state, and local funds, to contract with the State of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application
- 2 The LOCAL GOVERNMENT is empowered to accept the Public Works Trust Fund financial assistance and to provide for repayment of the loan as set forth in the loan agreement
- 3 There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the LOCAL GOVERNMENT from repaying the Public Works Trust Fund loan extended by the DEPARTMENT with respect to such project. The LOCAL GOVERNMENT is not a party to litigation which will materially affect its ability to repay such loan on the terms contained in the loan agreement
- 4 Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to the LOCAL GOVERNMENT

  
Signature of Attorney

July <sup>23</sup>9, 1991  
Date

Mr Kenneth Davidson,  
Name  
Davidson, Czeisler, Kilpatric  
and Zeno, P S

Address  
P O Box 817  
Kirkland, WA 98083-0817

**DEPARTMENT OF COMMUNITY DEVELOPMENT**


Ninth & Columbia Building  
Mail Stop GH 61  
Olympia WA 98504

Public Works Trust Fund


**SIGNATURE AUTHORIZATION**

<b>NAME OF ORGANIZATION</b> Rose Hill Water District	<b>DATE SUBMITTED</b> July 10, 1991
<b>NAME OF PROJECT</b> 14 3 M G Reservoir and Main Replacement	<b>CONTRACT NUMBER</b> PW-5-91-280-053


**AUTHORIZED TO SIGN APPLICATIONS/REVISED APPLICATIONS**

SIGNATURE	PRINT OR TYPE NAME	TITLE
	William T Skahan	General Manager
	Trudy Sullivan	Controller


**AUTHORIZED TO SIGN CONTRACTS/CONTRACT MODIFICATIONS**

SIGNATURE	PRINT OR TYPE NAME	TITLE
	William T Skahan	General Manager
	Trudy Sullivan	Controller

**AUTHORIZED TO SIGN VOUCHERS**

SIGNATURE	PRINT OR TYPE NAME	TITLE
	William T Skahan	General Manager
	Trudy Sullivan	Controller

**AUTHORIZING AUTHORITY**

SIGNATURE	PRINT OR TYPE NAME	TITLE
	William T Skahan	General Manager
	Trudy Sullivan	Controller

5558328

Statutory Warranty Deed

TAX LOT 136

CLASS FOR MIS UPS AT THE DISCRETION OF THE GRANTEE. THIS IS A CO-MANAGED ACCOUNT. AN AVAILABLE ACCOUNT IS AVAILABLE.

LAWYERS TITLE INSURANCE CORPORATION  
1109 2nd AVE.  
SEATTLE, WASHINGTON

King & King  
1109 2nd AVE.  
SEATTLE, WASHINGTON

Send The Return to



Statutory Warranty Deed



THE GRANTOR LOVELL DE YOUNG and STILLA J DE YOUNG, husband and wife,  
for and in consideration of ten and other dollars  
in hand paid, conveys and warrants to KING COUNTY WATER DISTRICT NO 81, a municipal corporation  
the following described real estate, situated in the County of King State of Washington

The north half of the northeast quarter of the northeast quarter of the southeast quarter of Section 34, Township 28 North, Range 5 East W 4  
EXCEPT the west 180 feet thereof; and  
EXCEPT the east 192 feet thereof  
SUBJECT TO assessment for road purposes over the north 20 feet of the said property as reserved in deed dated April 29, 1953, recorded under Auditor's File No. 3881566, and  
SUBJECT TO assessment over the said 20 feet as granted in deed bearing the same date as the within instrument in favor of the west 100 feet excepted above.

STATE OF WASHINGTON

*Handwritten signature*

Lovell De Young and Stella J. De Young

to be the individual described in and who executed the foregoing instrument, and acknowledged they signed and sealed the said instrument and that they executed the same for the purposes therein expressed.

GIVEN under my hand and official seal this 29th day of March, 1963

Notary Public in and for the State of Washington,  
Richard

MAR 20 1963 830 Filed by LTI