

RESOLUTION R- 3993

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR KING COUNTY TO CONTRIBUTE FUNDS TOWARDS THE COST OF ROADWAY IMPROVEMENTS WHICH WERE CONSTRUCTED ALONG 116TH AVENUE NORTHEAST.

Whereas, in 1988, the City took over from King County as lead agency for the project to construct roadway improvements along 116th Avenue Northeast from Northeast 124th Street north to the Metro Park and Ride; and

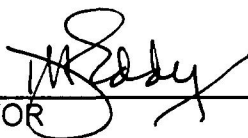
Whereas, as a result, King County will contribute \$96,688.00 to the City of Kirkland towards the cost of the roadway improvements which were constructed along said right-of-way;

Now, therefore, be it resolved by the City Council of the City of Kirkland as follows:

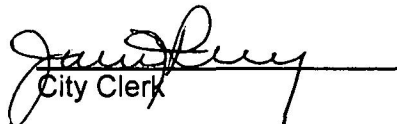
Section 1. The City Manager is hereby authorized to sign the attached Agreement to facilitate the City's receipt of \$96,688.00 from King County towards the cost of roadway improvements constructed along 116th Avenue Northeast from Northeast 124th Street north to the Metro Park and Ride.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 6th day of February, 1996.

Signed in authentication thereof this 6th day of February, 1996.

  
MAYOR

Attest:

  
City Clerk

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## AGREEMENT

116th Avenue Northeast

(Northeast 124th Street to Metro Park and Ride)

THIS AGREEMENT made and entered into by and between the County of King, a governmental subdivision of the State of Washington, hereinafter called the "County," and the City of Kirkland, hereinafter called the "City."

## WITNESSETH

WHEREAS, the parties propose to proceed with the reconstruction of 116th Avenue Northeast, hereinafter referred to as the "Project"; and

WHEREAS, the parties had previously shared jurisdiction over portions of the Project; and

WHEREAS, the Project is now entirely within the incorporated city limits of Kirkland, due to annexation by the City; and

WHEREAS, the agreement which is currently in effect between the City and the County, dated June 19, 1984, is no longer applicable;

IN CONSIDERATION of the mutual benefit accruing herein, the parties hereto agree as follows:

## I. DESIGN

The City shall perform all remaining design and engineering services for the Project, in accordance with all applicable standards.

## II. BIDDING

- a. The City shall prepare the construction documents and incorporate them into the Contract Bid Documents.
- b. Bid awards shall be made to the lowest responsible bidder for the total project, subject to applicable laws and regulations.

## III. CONTRACT ADMINISTRATION

- a. The City shall provide all engineering, administrative, inspection, and clerical services necessary for the execution of the Project. In providing such services, the City Engineer may exercise all powers and perform all duties vested by law in him.

## IV. PAYMENT

- a. The reconstruction of the Project has been approved by the Puget

## IV. PAYMENT (Continued)

Sound Council of Governments and is an approved project in the Transportation Improvement Program, 1989 Annual Element, and qualifies for Federal Aid Urban System (FAUS) funding in the amount of \$811,120. The City shall be responsible for all Project costs in excess of the FAUS grant of \$811,120 and the contribution from the County, which shall not exceed \$96,688.00, and which represents the remainder of the County's financial obligation to the Project.

- b. The City shall bill the County for actual expenses incurred, on no more than a monthly basis. All payments shall be due within 30 days of the billing date, with one percent per month interest being charged to the County as a delinquent charge starting 30 days after the billing date.
- c. In the event a lawsuit is instituted to enforce the payment obligations of the County, the City shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees,

## V. NON-DISCRIMINATION

## a. General

- 1. The word "City" as it appears in this section is defined to be the City of Kirkland or any of its contractors or subcontractors assigned to this project.
- 2. During the performance of this contract, neither the City nor any party subcontracting under authority of this Agreement shall discriminate on the basis of race, color, sex, religion, national origin, creed, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefits under this agreement.
- 3. The City shall comply fully with King County Code, Chapter 12.16, and all applicable federal, state and local laws, ordinances, executive orders and regulations which prohibit such discrimination. These laws include, but are not limited to RCW 49.60, Titles VI and VII of the Civil Rights Law of 1964, Section 504 of the Rehabilitation Act of 1973, Executive Order 11246 issued by the President of the United States and Executive Order 2001-R issued by the County Executive.
- 4. In the event of noncompliance by the City with any of the nondiscrimination provisions of this Agreement, the local jurisdictions shall have the right, at their option, to cancel the contract, in whole or in part. If the contract is cancelled after partial performance, the local jurisdiction's obligation will be limited to the fair market value or the contract price, whichever is lower, for goods and services which were received and approved prior to cancellation.

b. Employment

1. The City shall not discriminate against any employee or applicant for employment due to race, color, religion, creed, sex, sexual orientation, age, national origin, marital status or the presence of any sensory, mental or physical handicap in any employment practice including, but not limited to, hiring and firing, layoffs, upgrading, promotion or transfer, recruitment or recruitment advertising, rates of pay or other forms of compensation, training, or any other term condition or practice of employment.
2. The City shall give notice of its nondiscrimination policy and obligation in all solicitations or advertisements for employees, and shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other understanding a notice of the commitments under this section.
3. The City shall comply with all applicable federal, state and local laws and regulations regarding nondiscrimination in employment.

c. Program and Services

1. The City or any subcontracting authority under this Agreement, agrees not to discriminate on the basis of race, color, national origin, marital status, religion, creed, sex, age, sexual orientation, or the presence of any sensory, mental or physical handicap in the access to, or in the provision and administration of, any program or activity under this contract.

"Discrimination" includes:

- A) denial of services or benefits,
- B) segregated, separate, or different treatment,
- C) effect of discriminatory treatment.

This obligation includes taking affirmative steps to make programs and services available and accessible to the handicapped and all other pertinent sections of King County Code, Chapter 12.16, the County's Affirmative Action Plan, and the County's 504 Accessibility Plan.

d. Minority/Women's Business

The City shall fully comply with the requirements of King County Code, Chapter 4.18. Failure to do so shall be a material breach of contract.

1. During the term of this contract the City shall:
  - A) Comply, as to tasks and proportionate dollar amounts throughout the term of this contract, with any plans made in its proposal for the use of minority and/or women business enterprises (M/WBs).
  - B) Adhere to the County's substitution policy when a M/WB for any reason becomes disassociated with the contract.

d. Minority/Women's Business (Continued)

2. The local jurisdictions and King County in general, and the County's M/WB program in particular, are damaged when a contract or a portion of a contract to be performed by a M/WB is not actually performed by a M/WB in compliance with King County Code, Chapter 4.18. Because the actual amount of such damage is not reasonably calculable, the parties agree and stipulate that liquidated damages of 100% of the value of the utilization lost due to the violation, not to exceed 10% of the total dollar value of the contract, shall be the amount required to compensate the local jurisdictions and the County for resulting delays in carrying out the purpose of the program, the costs of meeting utilization goals through additional contracts, the administrative costs of investigation and enforcement and other damages and costs caused by the violation.

VI. SEVERABILITY

If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

VII. INDEMNIFICATION AND HOLD HARMLESS

Each party hereto agrees to indemnify and hold harmless the other party, and its officers, agents and employees, for all claims (including demands, suits, penalties, losses, damages or costs of any kind whatsoever) to the extent such a claim arises or is caused by the indemnifying party's own negligence or that of its officers, agents or employees in performance of this agreement.

VIII. OTHER PROVISIONS

- a. Upon completion of the Project, the City shall retain ownership and maintenance responsibility for the Project.

VIII. OTHER PROVISIONS (Continued)

- b. This Agreement contains the entire written agreement of the parties and supersedes the agreement between the City and County, dated June 19, 1984 and all prior discussions. It is understood by the parties that the agreement executed June 19, 1984 is hereby deemed null and void. This Agreement may be amended only in writing, signed by both parties.
- b. This Agreement shall be effective upon execution and shall terminate when the obligations hereunder have been completed.

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

KING COUNTY, WASHINGTON

CITY OF KIRKLAND

\_\_\_\_\_  
King County Executive

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

Date \_\_\_\_\_

Date \_\_\_\_\_

APPROVED AS TO FORM:

Bradley J. Hiller  
Deputy Prosecuting Attorney

Date 9/5/89

WP: (AGRE)D26