

RESOLUTION R- 4248

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT WITH NORTHSORE UTILITY DISTRICT FOR THE CONSTRUCTION OF WATERMAIN IMPROVEMENTS IN CONNECTION WITH THE CITY'S JUANITA DRIVE ROADWAY IMPROVEMENT PROJECT.

WHEREAS, the City of Kirkland will be improving Juanita Drive as authorized by the 2000 to 2005 Capital Improvement Program; and

WHEREAS, the Northshore Utility District would like to have a new watermain installed in Juanita Drive at the same time to take advantage of the fact that the right of way will be uncovered at that time; and

WHEREAS, Northshore Utility District has agreed to reimburse the City of Kirkland for the construction of those watermain improvements in Juanita Drive if the City will undertake that project on NUD's behalf; and

WHEREAS, the City of Kirkland is authorized by RCW Chapter 39.34 to enter into Interlocal agreements with other governmental entities;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

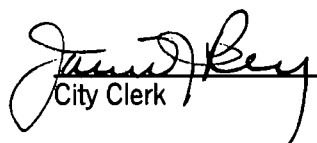
Section 1. The City Manager is hereby authorized to execute an Interlocal Agreement with Northshore Utility District on behalf of the City in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

Passed by majority vote of the Kirkland City Council in open meeting this 6th day of June, 2000.

Signed in authentication thereof this 6th day of June, 2000.

  
\_\_\_\_\_  
MAYOR

Attest:

  
\_\_\_\_\_  
City Clerk



## **EXHIBIT A INTERLOCAL AGREEMENT**

### **FOR INCORPORATION OF NORTHSORE UTILITY DISTRICT WATER MAIN RELOCATION INTO THE CITY OF KIRKLAND'S JUANITA DRIVE ROADWAY IMPROVEMENTS**

The City of Kirkland (hereinafter the "City") and Northshore Utility District (hereinafter the "District"), both municipal corporations, in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW) do hereby agree as follows:

#### **1. PURPOSE**

The purpose of this Agreement is to provide for the relocation of District water mains and appurtenances along Juanita Drive, as identified on the water construction plans supplied to the City by the District. The water main design will be incorporated into the City approved construction drawings for the Juanita Drive improvement project, officially entitled Juanita Drive Roadway Improvements (CST 0030) (hereinafter the "Improvement Project"). The parties have determined that it is in their mutual best interest to coordinate the relocation of these water mains and appurtenances in conjunction with the Improvement Project.

#### **2. THE PROJECT**

The parties hereby agree that the District's plans for relocation of water mains and appurtenances, including without limitation appropriate connections on intersected side streets, will be incorporated in the City's plans for the Improvement Project. The District's relocation will be performed in accordance with the design performed by the District or its professional engineering representative. The City's right-of-way improvements and the District's relocation of water mains and appurtenances are hereinafter referred to as "the Project."

#### **3. THE CONSTRUCTION PROCEDURE**

##### **a. District Engineering and Design**

The District shall be responsible for the engineering and design costs associated with the water main relocation. The District's water main plans, specifications, standard details and bid item schedule shall be submitted to the City no later than December 31, 1999 for incorporation into the Project plan set for bidding purposes. The City shall incorporate the District's plans, specifications, standard details and schedule of items in such a manner as to allow the identification of costs for the water main relocation.

##### **b. Contractor Selection**

The City shall call for bids for the construction of the Project and shall provide the District with copies of the bid tab. The City shall select the lowest responsible bid for the Project. If, in the lowest responsible bid, the total dollar amount bid for the water schedule exceeds the Engineer's Estimate for that portion of the project by in excess of 15 percent, the District shall have, at its option, ten (10) calendar days from the date of bid opening to notify the City in writing that it is electing to withdraw that portion of the work from the overall project scope. In its exercise of this 10-day option, the District will notify the City in writing that it intends to relocate the District's water mains and appurtenances using its own contractor; provided, however, that such District relocation must be completed no later than ninety (90) days following the date of the City's bid opening. Unless the District has opted to withdraw as permitted above, the City shall enter into a contract, in the City's name

only, with the successful contractor to construct both the street and water schedules of the Project. The City shall administer such construction contract. The District shall attend the pre-construction meeting and assist the City in the administration of the contract by agreeing to review and return, with comments, all water-related contractor submittals for the Project within seven (7) days of the date of receipt by the District.

c. City as Contracting Agency

The City shall serve as the contracting agency during construction for the parties and shall generally manage and oversee the construction of the District's water main relocation in conjunction with the Project. The District will provide on-call inspections of the relocation work prior to backfilling operations being performed. The District will be responsible for direct inspection of all pressure and purification testing, of relocated water line and appurtenances. The District will be responsible for any and all excess costs incurred by the City as a direct result of the District's failure to timely inspect and test the water line installation work performed by the contractor. Compaction requirements of the District will be incorporated with those of the City. The City will provide for compaction testing.

d. Change Orders

The City may approve changes in those parts of the construction contract providing for relocation of the water mains and appurtenances, provided that if any change order would change the nature of the relocation work or would cause that portion of the contract price attributable to such relocation work to increase by more than \$1,000.00 or cumulatively more than two percent (2%) of the original contract amount attributable to the water main relocation work, the District's prior consent to the change orders shall be obtained, which consent shall not be unreasonably withheld. In the event that consent is unreasonably withheld, the District will be held responsible for all liability incurred by the City resulting from such withholding of consent. The City shall immediately provide the District with copies of all requests for change orders and executed change orders associated with water main relocation regardless of the dollar amount of the change order.

e. Payment Procedure

The City shall provide the District with monthly progress billings for that portion of the Project attributable to relocation of the District's water main and appurtenances. The City and District will meet to review and agree upon progress and proposed disbursements to Project contractors. The District shall pay the City for the cost of relocating the described water mains and appurtenances, along with appropriate connections on the intersected side streets, as provided in the contract bid (as adjusted by change order), based upon agreed upon progress, within forty five (45) days of receipt of each billing.

f. Payments to Contractor

The City shall make all disbursements to Project contractors.

g. Final Acceptance

That portion of the contractor's work consisting of the District's water main relocation shall not be given final acceptance until it is approved in writing by the City and the District. Either party shall not unreasonably withhold approval for final acceptance hereto. The water main and appurtenances shall become the property of the District upon final acceptance. The City agrees to assign all warranties related to the water main and appurtenances to the District.

h. Staff Time, Costs, and Incidental Expenses

At all times material hereto, the parties shall separately bear their own staff time, engineering costs, and incidental expenses.

Should any claims arise related to the waterline and appurtenance relocation portion of the Project, the City shall handle and administer such claims in the same manner as it would handle any other claims on the Project. The City shall immediately notify the District and keep it informed as to the progress of the claim. The District will provide guidance to the City regarding proposed terms of settlement. Any decision regarding the settlement or prosecution of a claim shall be approved by the District prior to being finalized. If the District and the city cannot agree as to the prosecution or settlement of a claim, the District may prosecute or defend the claim and the City will assign such claims to the District. The District agrees to pay a;; costs of prosecution or defense if assigned such claims and defend, indemnify and hold harmless the City from all damages the City suffers from the District's prosecution or defense of the claim.

i. Separate Bid Items

The City will segregate the water main relocation work as separate bid items in the construction contract.

j. District Inspections

The City will allow the District to inspect the water main relocation work at reasonable times before any work is covered. To accomplish this, the City will provide the District with copies of the contractor's project schedules and any revisions thereto, and advise the District 24 hours prior to the need for such inspection. The district agrees to provide such inspection in a timely manner to minimize delay to the contractor and City.

4. INDEMNIFICATION AND INSURANCE

- a. The City shall require the Contractor building the Project to have the Northshore Utility District, its Commissioners, officials, agents and employees 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 City. The Contractor building the Project shall be required to maintain Builder's Risk Insurance and Public Liability Insurance.
- b. The City shall require Contractor building the Project to indemnify, defend, and save harmless the District and its Commissioners, officers, agents, or employees from any claim, real or imaginary, filed against the District or its officers, agents, or employees alleging damage or injury arising out of the contractor's participation in the Project.

- c. The City shall require Contractor building the Project to be solely and completely responsible for safety and safety conditions on the job site, including the safety of all persons and property during performance of the work. Contractor shall comply with all applicable City, County, and State regulations, ordinances, orders, and codes regarding safety. The contractor's attention is directed to the requirements of the Washington Industrial Safety and Health Act, WISHA, RCW 49.17.

5. 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  
Kirkland, Washington 98033 - 6189

Northshore Utility District  
John D. Hastig, Engineering Manager  
or his designee  
P.O. Box 489  
Kenmore, Washington 98028 - 0489

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

6. This Agreement may be signed in counterparts, and, if so signed, shall be deemed one integrated document.

The date of this Agreement is \_\_\_\_\_, 2000.

Execution of this Agreement by the undersigned representatives of each party has been authorized by Resolution No. \_\_\_\_\_ of the City of Kirkland and Resolution No. 2000-5-9 of the Board of Commissioners of the Northshore Utility District.

CITY OF KIRKLAND

NORTHSHORE UTILITY DISTRICT

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

  
General Manager

Approved as to form:

Approved as to form:

  
City Attorney

\_\_\_\_\_  
Utility District Attorney