

RESOLUTION R- 4269

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE INTERLOCAL AGREEMENT WITH NORTHSORE UTILITY DISTRICT FOR THE ADJUSTMENT OF SANITARY SEWER STRUCTURES IN CONNECTION WITH THE CITY'S SLATER AVENUE NE ROADWAY IMPROVEMENTS PROJECT.

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

WHEREAS, sanitary sewer structures owned and maintained by Northshore Utility District will require modification as a result of said roadway improvements ; and

WHEREAS, Northshore Utility District has agreed to reimburse the City of Kirkland for the modification of those sanitary sewer structures on Slater Avenue NE if the City will direct the modifications to be performed 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 2nd day of January, 2001.

Signed in authentication thereof this 2nd day of January, 2001.

MAYOR

Attest:

Deputy

City Clerk



EXHIBIT A INTERLOCAL AGREEMENT

FOR INCORPORATION OF NORTSHORE UTILITY DISTRICT SEWER MANHOLE ADJUSTMENTS INTO THE CITY OF KIRKLAND'S SLATER AVENUE NE 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 adjustments to the District's sanitary sewer manholes (hereinafter the "manhole adjustments") along Slater Avenue NE, as identified on the construction drawings supplied by the City. The required manhole adjustments will be incorporated into the City approved construction drawings for the Slater Avenue NE improvement project, officially entitled Slater Avenue NE Roadway Improvements (CST-0031) (hereinafter the "Improvement Project"). The parties have determined that it is in their mutual best interest to coordinate the manhole adjustments in conjunction with the Improvement Project.

2. THE PROJECT

The parties hereby agree that the City's plans for the manhole adjustments will be incorporated in the City's construction drawings for the Improvement Project. The manhole adjustments will be performed in accordance with the design performed by the City and approved by the District. The City's right-of-way improvements and the manhole adjustments are hereinafter referred to as "the Project."

3. THE CONSTRUCTION PROCEDURE

a. City Engineering and Design

The District shall be responsible for the engineering and design costs associated with the manhole adjustment. The City shall incorporate the District approved plans, specifications, standard details and schedule of items in such a manner as to allow the identification of costs for the manhole adjustments, and shall track all City staff time related to the design of the manhole adjustments.

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 manhole adjustments 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 make the manhole adjustments using its own contractor; provided, however, that such District adjustments 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 manhole adjustment 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

manhole adjustment-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 manhole adjustments in conjunction with the Project. The District will provide inspections of the manhole adjustment work prior to backfilling operations being performed. The District will be responsible for direct inspection of the manhole adjustments. 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 manhole adjustments, provided that if any change order would change the nature of the manhole adjustment work or would cause that portion of the contract price attributable to such adjustment work to increase by more than \$1,000.00 or cumulatively more than two percent (2%) of the original contract amount attributable to the manhole adjustment 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 manhole adjustments 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 manhole adjustments. 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 manhole adjustments, 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 manhole adjustments shall not be given final acceptance until it is approved in writing by the City and the District. Neither party shall unreasonably withhold approval for final acceptance. The manhole adjustments shall become the property of the District upon final acceptance. The City agrees to assign all warranties related to the manhole adjustments 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 manhole adjustment 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 all 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 manhole adjustment work as separate bid items in the construction contract.

j. District Inspections

The City will allow the District to inspect the manhole adjustment 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 will be 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. INTEGRATION AND MODIFICATION

This Agreement constitutes the final and completely integrated agreement between the parties concerning its subject matter and it may be signed in counterparts without affecting the validity of this provision. No modification of this agreement or this section is valid unless in writing and signed by both parties.

7. ASSIGNMENT

Neither party to this Agreement shall transfer or assign any right or obligation hereunder without the prior written consent of the other party.

The date of this Agreement is _____, 200__.

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. _____ of the Board of Commissioners of the Northshore Utility District.

CITY OF KIRKLAND

NORTHSHORE UTILITY DISTRICT

City Manager

General Manager

Approved as to form:

City Attorney