

RESOLUTION NO. R- 4364

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN INTERAGENCY AGREEMENT WITH KING COUNTY FOR PROCUREMENT OF THE DESIGN PHASE DRAWINGS AND IDENTIFICATION OF THE RIGHTS OF WAY NEEDED FOR THE INTERSECTION IMPROVEMENTS AT 124<sup>TH</sup> AVENUE AND NE 132<sup>ND</sup> STREET.

WHEREAS, King County will improve 124<sup>th</sup> Avenue NE, including some of the intersection of 124<sup>th</sup> Avenue NE and NE 132<sup>nd</sup> Street ("the Intersection"), which is adjacent to the corporate limits of the City of Kirkland; and

WHEREAS, the City has identified the need to improve components of the Intersection within the City of Kirkland to meet concurrency standards identified in the City's comprehensive plan; and

WHEREAS, the City of Kirkland has allocated up to \$480,000 from the City's grant match fund to contribute to King County for improvements to the City's portion of the Intersection; and

WHEREAS, it is in the best interest of the parties to improve the Intersection at the same time and, at this time, to designate a lead agency for procurement of the design phase drawings and identification of the rights of way needed by both the County and the City for the improvements; and

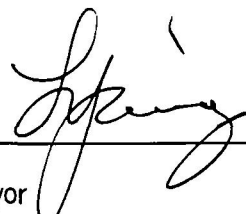
WHEREAS, the City of Kirkland is authorized by RCW Chapter 39.34 to enter into agreements with other governmental entities;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1. The City Manager of the City of Kirkland is hereby authorized to execute an Interagency Agreement with King County 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 regular open meeting on the 4th day of March, 2003.

SIGNED IN AUTHENTICATION thereof this 4th day of March, 2003.

  
\_\_\_\_\_  
Mayor

Attest:

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

**INTERAGENCY AGREEMENT  
BETWEEN KING COUNTY AND THE CITY OF KIRKLAND  
REGARDING DESIGN PHASE IMPROVEMENTS AT THE INTERSECTION  
OF 124<sup>th</sup> AVENUE NORTHEAST AND NORTHEAST 132<sup>nd</sup> STREET**

This Agreement is made and entered into by and between King County, a political subdivision of the State of Washington ("the County"), and the City of Kirkland ("the City"). The City and the County are collectively referred to as "the parties."

**RECITALS**

- A. The County has a Capital Improvement Project on 124<sup>th</sup> Avenue Northeast from Northeast 132<sup>nd</sup> Street to Northeast 145<sup>th</sup> Street ("the County Project").
- B. The parties agree that the construction of the County Project will provide an important link in the regional transportation system.
- C. The parties have also identified the need for additional northbound right turn lane improvements to the intersection of 124<sup>th</sup> Avenue Northeast and Northeast 132<sup>nd</sup> Street ("the City Improvements"; CIP Project TR-0076) which are not part of the County Project.
- D. The parties agree that such City Improvements are necessary to provide additional capacity for development that is anticipated in the City.
- E. It is in the best interest of the parties to establish a lead agency to complete the design and prepare a right-of-way acquisition plan for the City Improvements, in coordination with the County Project.

NOW, THEREFORE, the parties agree as follows:

**AGREEMENT**

1. THE WORK

"The Work" is the accomplishment of the design phase of the City Improvements and the development of a right-of-way acquisition plan showing property acquisitions and easements needed to complete the City Improvements. The County currently anticipates that it can complete the Work by July, 2003. However, because this anticipated completion date can vary depending on many factors, the parties acknowledge that this anticipated completion date is an estimate only, and does not constitute a deadline.

2. GENERAL RESPONSIBILITIES

2.1 The County shall perform the Work. The City shall pay the County for the Work as described in Section 3.

2.1.1 The County will provide 30%, 60, and 90% plans and specifications to the City for review. The City will provide written comments, if any, to the County within fourteen days after the City receives the plans and

specifications.

2.1.2 The final design shall be mutually agreed upon by the parties.

2.1.3 The City shall be responsible for all other activities necessary to implement the City Improvements including, but not limited to, the acquisition of all property and easements necessary for the City Improvements and construction of the City Improvements.

2.2 The City hereby grants the County right of entry into the corporate limits of the City for the purpose of performing any and all tasks necessary to implement this Agreement.

2.3 The City shall be responsible for coordinating the public information and involvement with regard to the Work. The County shall be given the opportunity to attend and participate in any public meetings.

2.4 The parties shall appoint a contact person or persons to act as a liaison for the Work. These contact persons will meet on an "as needed" basis to provide guidance for the Work.

3. PAYMENT

3.1 The City's financial obligation for the Work is \$80,000.

3.2 The City's financial obligation for the Work above \$80,000 shall require written approval from the City. If the City does not approve the increases, the County may terminate the Agreement and cease all activities related to the Work. The City shall be responsible for all costs related to the Work incurred by the County up to the date of termination.

3.3 The parties agree to share the responsibilities for monitoring the costs for the Work.

3.4 The City shall be responsible for compliance with any grant conditions including grant reimbursements, if necessary.

3.5 The City shall pay the County for actual costs of the Work, including, without limitation, all costs incurred by the County for engineering, clerical, administrative, and other services attributable to the Work.

3.6 The County shall bill the City for actual expenses incurred on no more than a monthly basis. Invoices will reflect actual costs, including an administrative overhead rate. All payments shall be due within 30 days of the billing date, with one percent per month interest being charged to the City as a delinquent charge, starting 30 days after the billing date.

3.7 The City shall be responsible directly to the County for all payments described herein. Any payments or reimbursements that the City may anticipate receiving from the Evergreen Hospital development are a matter between the City and the hospital and shall not affect the City's obligations to pay the County for the Work.

3.8 In the event a lawsuit is instituted to enforce the payment obligations of the City, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

4. DURATION/TERMINATION

Subject to the termination provision in Section 3.2, this Agreement shall remain in effect

until completion of the Work and payment by the City of all monies due from the City to the County.

5. LIABILITY

Washington State law shall govern the respective liabilities of the parties to this Agreement for any loss due to property damage or injury to persons arising out of activities conducted pursuant to this Agreement.

6. DISPUTE RESOLUTION

In the event of a dispute between the parties regarding this Agreement, the parties shall attempt to resolve the matter informally. If the parties are unable to resolve the matter informally within 30 days, the matter shall be decided by the Manager of the King County Road Services Division subject to any other legal remedies the parties may have, including but not limited to, litigation.

7. OTHER PROVISIONS

- 7.1 The County shall be deemed an independent contractor for all purposes and the employees of the County, or any of its contractors, subcontractors and their employees shall not in any manner be deemed to be employees of the City.
- 7.2 Nothing contained herein is intended to, nor shall be construed to, create any rights in any party not a signatory to this Agreement, or to form the basis for any liability on the part of the City, the County, or their officials, employees, agents or representatives, to any party not a signatory to this Agreement.
- 7.3 Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.4 Each party shall retain ownership and usual maintenance responsibility for the road, drainage system, signs, sidewalk and other property within its jurisdiction.
- 7.5 If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the parties.
- 7.6 The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.
- 7.7 This Agreement contains the entire agreement of the parties and any representations or understandings, whether oral or written, not incorporated herein are excluded.
- 7.8 This Agreement may be amended only by an instrument in writing, duly executed by both parties.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date last written below.

**KING COUNTY**

**CITY OF KIRKLAND**

\_\_\_\_\_  
Road Services Division Manager

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPROVED AS TO FORM:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Deputy Prosecuting Attorney

\_\_\_\_\_  
City Attorney