

Attachment F

2006-029
15395

INTERLOCAL AGREEMENT
BETWEEN KING COUNTY AND CITY OF REDMOND
REGARDING THE IMPROVEMENTS TO
WEST LAKE SAMMAMISH PARKWAY NORTHEAST
FROM NORTHEAST 51" STREET TO MARYMOOR WAY

Contract #3825

THIS AGREEMENT is made and entered into between King County ("the County") and the City of Redmond ("the City") for the reconstruction of West Lake Sammamish Parkway Northeast from Northeast 51st Street to Marymoor Way ("the Project").

RECITALS

- A. The Project is located within the City of Redmond and in unincorporated King County.
- B. The City of Redmond has identified the need for road improvements to West Lake Sammamish Parkway Northeast from Northeast 51st Street to Marymoor Way.
- C. The parties can achieve cost savings and benefits in the public's interest by combining construction of their portions of the Project.
- D. It is in the best interest of all parties to establish a lead agency to coordinate the improvements.
- E. The City will be completing roadway design and construction of the Project. The City will use City personnel and a Consultant for the design of the project.
- F. The County and the City are authorized, pursuant to RCW Chapter 39.34, to enter into an interlocal governmental cooperative Agreement of this nature.

NOW, THEREFORE, the County and the City agree as follows:

I. SCOPE OF WORK

Widen a two-lane roadway to include additional vehicular lanes with bike lanes on both sides. Construct curb, gutter, and sidewalk on the west side and a separated pedestrian walkway on the east side. Modification of two existing signals at Northeast 51st Street and Marymoor Way, with illumination, drainage, utility reconstruction, water quality and landscaping.

II. TERMS AND CONDITIONS

- A. The City shall be the lead agency for the Project and shall be the lead with regard to design, permitting, right of way acquisition, if needed, construction and other matters pertinent to accomplishment of the Project.
- B. The City shall be responsible for the advertisement for and selection of engineering and other design consultants as necessary for the completion of the engineering design.

- C. The City shall be responsible for coordinating the public information and involvement process and shall work with the County to develop the Public Involvement Plan. The County shall be given the opportunity to attend and participate in any public meetings.
- D. The parties to this Agreement shall appoint a contact person or persons to act as a liaison for the Project. These contact persons will meet on an "as needed" basis to provide guidance for the Project and serve as a coordination body between the two agencies.
- E. The City and County shall mutually agree upon the schedule for the Project. The City will provide 90% plans and specifications to the County for review. The County will provide written comments, if any, to the City within fourteen days after the County receives the plans and specifications.
- F. The final acceptance of the Project shall be by the City after review and approval by the County for the roadway improvements within unincorporated King County.

III. CONSTRUCTION CONTRACT BIDDING

- A. The City shall prepare the contract bid documents for the Project.
- B. The City shall advertise the contract in the official legal publication for the City and, if necessary, other newspapers in the Redmond area to provide the widest possible coverage commensurate with the size of the Project.
- C. The City will provide to the County a copy of the plans and specifications advertised for bid.
- D. The City will open the bids. The City will notify the County of the time and date of the opening of the bids, which is typically three weeks after the Project is advertised. The County may, but need not, attend the opening of the bids.
- E. The City will tabulate the bids. The City shall provide a dated, verified copy of the bid tabulations to the County. The bid tabulations will identify the estimated construction, inspection and overhead cost, based upon the lowest responsible bid.
- F. The City shall award the contract to the lowest responsible bidder for the total Project, subject to applicable laws and regulations.

IV. CONTRACT ADMINISTRATION

- A. The City shall provide the necessary engineering, administrative, inspection, and clerical services necessary for the execution of the Project. In providing such services, the City Engineer may exercise all the powers and perform all the duties vested by law in him/her.
- B. The County may furnish an inspector (at County's expense) to insure proper compliance with requirements during the construction of the County's portion of the Project. The County's inspector shall advise the City of any deficiencies noted. The County's inspector shall not communicate directly with or instruct the contractor directly on any matters regarding contract performance. The County shall notify the City, in writing, of any changes it wishes to make in the plans and specifications which affect the County's portion, which changes shall be made, if feasible. The County will

be financially responsible for those requested construction changes if it significantly changes the scope of work.

- C. The City will at all times keep the County advised as to the progress of said Project, and shall not order or approve any changes in the approved project design that substantially change the nature of said Project without first consulting the County.
- D. The County hereby grants right of entry into the unincorporated limits of the County for the purpose of performing any and all tasks necessary to complete the Project.
- E. Prior to Project completion, both parties shall perform a mutual final inspection of the Project. The County may provide a written deficiency list for the roadway improvements within unincorporated King County, to the City within five working days after the final inspection. The contractor will complete only construction deficiencies that comply with the contract specifications. The County shall provide the final written acceptance of the Project to the City within 10 days of Project completion.

V. PAYMENT

- A. With King County appropriation approval of this Project for calendar year 2001:
 - 1. The County shall reimburse the City \$125,000 after the construction contract is executed with the apparent low bidder, for construction, administrative and inspection services for the Project.
 - 2. Such reimbursement shall satisfy the County's total obligation for the costs of the Project.
 - 3. Costs in excess of the \$125,000 shall require a written approved amendment to this Agreement.
- B. In the event a lawsuit is instituted to enforce the payment obligations of the County, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

VI. TITLE VI, NON - DISCRIMINATION

During the performance of this AGREEMENT, the City, for itself, its assignees and successors in interest, hereinafter referred to as the City, agrees as follows:

- A. **COMPLIANCE WITH REGULATIONS:** The City shall comply with the Regulations relative to non-discrimination in Federal-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations (CFR) Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this AGREEMENT. The City shall comply with the American Disabilities Act of 1992, as amended.
- B. **NONDISCRIMINATION:** The City, with regard to the work performed by it during this AGREEMENT, shall not discriminate on the grounds of race, creed, color, sex, age, marital status, national origin or handicap in the selection and retention of contractors, including procurements of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5

of the Regulations, including employment practices when the contract covers a program set forth in Appendix A -11 of the Regulations.

- C. SOLICITATIONS FOR CONTRACTORS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations, either by competitive bidding or negotiation, made by the City for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor or supplier shall be notified by the City of the City's obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, creed, color, sex, age, marital status, national origin and handicap.
- D. INFORMATION AND REPORTS:** The City shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the County, or the United States Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. SANCTIONS FOR NONCOMPLIANCE:** In the event of the City's noncompliance with the nondiscrimination provisions of this AGREEMENT, the County shall impose such sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
1. Withholding of payments to the City under this AGREEMENT until the City complies, and/or
 2. Cancellation, termination or suspension of this AGREEMENT, in whole or in part.
- F.** The City, or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this AGREEMENT. The City shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted AGREEMENTS. Failure by the City to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.
- G. INCORPORATION OF PROVISIONS:** The City shall include the provisions of paragraphs (A) through (H) in every contract and/or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The City shall take such action, with respect to any contractor, or procurement as the County or the Federal Highway Administration may direct, as a means of enforcing such provisions including sanctions for noncompliance provided, however, that, in the event a City becomes involved in, or is threatened with litigation with a contractor, or supplier as a result of such direction, the City may request the County to enter into such litigation to protect the interests of the County, and in addition, the City may request the United States to enter into such litigation to protect the interests of the United States.
- H. UNFAIR EMPLOYMENT PRACTICES:** The City shall comply with RCW 49.60.180 and Executive Order number E.O. 77-13 of the Governor of the State of Washington, which prohibits unfair employment practices.

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VII. COMPLIANCE WITH LOCAL REGULATIONS

In addition to the foregoing, the City, Contractor or any party subcontracting under the authority of this Agreement shall comply with the following local regulations. In the event of an apparent difference between the following local regulations and language contained elsewhere in this AGREEMENT, all parties shall comply with the language that provides the greater protection against discrimination.

A. KCC Chapters 12.16 and 12.18 are incorporated by reference as if fully set forth herein and all parties agree to abide by all the conditions of said Chapters. Failure by all parties to comply with any requirements of these Chapters shall be a material breach of this AGREEMENT.

1. During the performance of this AGREEMENT, all parties subcontracting under the authority of this AGREEMENT shall not discriminate on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental, or physical handicap in the employment or application for employment or in the administration or delivery of services or any other benefits under this AGREEMENT.

All parties shall comply fully with all applicable Federal, State and Local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.

2. During the performance of this AGREEMENT, all parties under the authority of this AGREEMENT shall not engage in unfair employment practices. It is an unfair employment practice for any:
 - a. a employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment;
 - b. employment agency or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;
 - c. employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application therefore, which indicates any discrimination unless based upon a bona fide occupation qualification;
 - d. employment agency to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;
 - e. employer, employment agency or a labor organization to retaliate against any person because this person has opposed any practice forbidden by KCC Chapter

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12.18 or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of KCC Chapter 12.18;

- f. publisher, firm, corporation, organization or association printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of KCC Section 12.18.030 C, or to segregate and separately designate advertisements as applying only to men and women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification; and/or
- g. employer to prohibit any person from speaking in a language other than English in the workplace unless:
 - 1. the employer can show that requiring that employees speak English at certain times is justified by business necessity, and
 - 2. the employer informs employees of the requirement and the consequences of violating the rule.

3. NONDISCRIMINATION IN SUBCONTRACTING PRACTICES.

During the term of this Agreement, the City or Contractor shall not create barriers to open and fair opportunities to participate in City or County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the City or Contractor shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

If any party engages in unfair employment practices, as defined above, remedies as set forth in KCC 12.18 shall be applied.

Assistance with the requirements of this Section and copies of Chapter 12.16 and 12.18 are available from King County Business Development & Contract Compliance Division, phone (206) 205-6249.

VIII. DURATION/TERMINATION

- A. This Agreement shall remain in effect until final acceptance of the Project and payment by the County of all monies due from the County to the City, subject to the early termination provisions in Section VII B and C.
- B. If expected or actual funding is withdrawn, reduced or limited in any way prior to the completion of the Project, either party may, with thirty (30) days written notice to the other party, terminate this Agreement.
- C. In the event of termination prior to completion of the Project:

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1. The party requesting termination shall pay all direct and indirect phasing-out costs.
2. Termination costs payable shall not exceed the actual costs incurred as a result of termination of the Project.
3. The other party shall be released from any obligation to provide further services pursuant to the Agreement.

IX. INDEMNIFICATION AND HOLD HARMLESS

- A. Each party hereto agrees to indemnify and hold harmless the other party, and its officials, agents and employees, for all claims (including demands, suits, penalties, losses, damages, attorney's fees, expenses 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 officials, agents or employees in performance of this Agreement. Provided, however, that the County specifically agrees to indemnify and hold the City harmless from and against any and all claims caused by the negligence of the County, for defective maintenance or repair of any improvements constructed by the City within the County following completion of construction and acceptance by the County
- B. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under the State of Washington's Industrial Insurance Act, RCW Title 51, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnity's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them
- C. The provisions of this section shall survive the expiration or earlier termination of this Agreement with regard to any event that occurred prior to or on the date of such expiration or earlier termination.

X. OTHER PROVISIONS

- A. The City shall be deemed an independent contractor for all purposes and the employees of the City, or any of its contractors, subcontractors and their employees shall not in any manner be deemed to be employees or agents of the County.
- B. 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.
- C. Waiver of any 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.

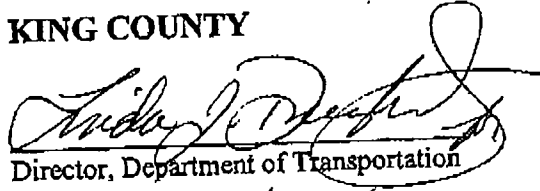
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- D. Each party shall retain ownership and usual maintenance responsibility for the road, drainage system, signs, sidewalk and other property within its jurisdiction.
- E. If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the parties.
- F. This Agreement contains the entire Agreement of the parties and any representations or understandings, whether oral or written, not incorporated herein are excluded.
- G. Only an instrument in writing, duly executed by both parties may amend this Agreement.

IN CONSIDERATION of the mutual benefit accruing herein, the parties hereto agree that the work as set forth herein will be performed by the City under the terms of this Agreement.

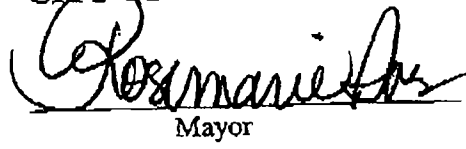
IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date last written below.

KING COUNTY


 Director, Department of Transportation

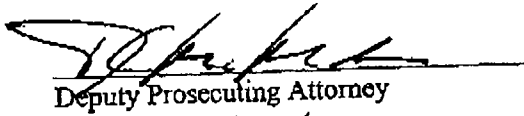
3/28/01
 Date

CITY OF REDMOND


 Mayor

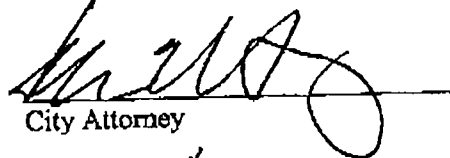
3-1-2001
 Date

APPROVED AS TO FORM:


 Deputy Prosecuting Attorney

3/26/01
 Date

APPROVED AS TO FORM:


 City Attorney

2/27/01
 Date

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