

July 20, 1990

INTRODUCED BY: BRUCE LAING

PROPOSED NO. 90-671

MOTION NO. 8028

A MOTION authorizing the executive to enter into an agreement with the Woodinville Water District to combine bidding for a contract to perform work for the county and the Woodinville Water District.

WHEREAS, the county and Woodinville Water District ("the district") desire to cooperate in connection with the relocation and construction of certain waterworks and sewer systems so as to reduce the costs of such work, and to enter into an agreement allowing the county to obtain the services of a contractor for a county road project which would include work the district desires to have completed, and

WHEREAS, the district desires to use the form of an interlocal agreement for this purpose;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

The executive is authorized to enter into the agreement between King County and the Woodinville Water District in substantial conformance with Exhibit A, attached hereto.

PASSED this 20th day of August, 1990.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Lois North
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

Interlocal Agreement Between
King County (Washington) and
Woodinville Water District

This Interlocal Agreement ("Agreement") is made by and between the County of King ("County"), a county of the state of Washington, and Woodinville Water District ("WWD"), a special purpose district formed under Title 57 of the Revised Code of Washington ("RCW"), as of the ____ day of _____, 1990, and

WITNESSES THAT:

WHEREAS, County has duly authorized and approved this Agreement on _____, 1990 under its Ordinance No. _____; and

WHEREAS, WWD has duly authorized and approved this Agreement on _____, 1990 under its Resolution No. _____; and

WHEREAS, both County and WWD are each empowered individually to contract for the construction and relocation of waterworks and systems of sewers within their respective service areas; and

WHEREAS, County and WWD desire to cooperate in connection with the relocation and construction of certain waterworks and sewer systems so as to reduce the costs of such relocation and construction; and

WHEREAS, County and WWD intend that this Agreement be interpreted to cover only those services and facilities with regard to which no officer or agency of state government has constitutional or statutory powers of control, such that this Agreement would require approval by such officer or agency before becoming effective;

NOW, THEREFORE, under the authority granted by Chapter 39.34 RCW, RCW 56.08.060, 57.08.010(1)(a) and 57.08.065, and other applicable laws, and in consideration of the respective covenants set forth in this Agreement, County and WWD agree as follows:

1. EFFECTIVE DATE AND DURATION. This Agreement shall take effect as of the the later to occur of (a) the date set forth at the beginning of this Agreement or (b) the date that a copy of this Agreement has been filed with the secretary of WWD, the county auditor of King county, and the secretary of state of the state of Washington; and shall remain in full

force and effect until the waterworks and sewer systems that are the subjects of this Agreement have been accepted by WWD and become the property of WWD and until WWD has proffered to County final payment due from WWD to County under this Agreement, with the exceptions that the covenants and agreements contained in paragraph nos. 8, 12, 13 and 14 shall survive the termination of all of the other provisions of this Agreement.

2. PREPARATION OF CONTRACT DOCUMENTS. WWD shall, in a timely manner, furnish to County reproducible construction drawings, any and all provisions and other documents that relate to or that WWD desires incorporated into the public works contract for the waterworks and sewer systems that are the subject of this Agreement. County shall incorporate these drawings, special provisions and other documents provided by WWD as part of the public works contract that is the subject of this Agreement and will otherwise make provisions in its contract bid document such that the costs attributable to the waterworks and sewer systems to be paid for by WWD will be segregated from the costs that will be payable by County. The contract bid documents shall also allow for the County to proceed with the work for which WWD has no responsibility under this Agreement, without proceeding with the work for which WWD is responsible under this Agreement. WWD shall have a reasonable time to review the bids received by County with respect to the Project (defined in paragraph no. 3 of this Agreement) and may elect (for any reason or without any reason) to segregate from the County contract the work for which WWD will be responsible for paying and to contract for that work separately and on WWD's own behalf.

3. ADMINISTRATION OF PUBLIC WORKS CONTRACT. Except as otherwise provided in paragraph no. 2 of this Agreement, County, and not WWD, shall contract for all work in connection with the relocation of Northeast 195th Street in Woodinville, Washington, including, without limitation, the relocation and construction of the waterworks and sewer facilities that County and WWD have agreed will be relocated in connection with this street relocation. For purposes of this Agreement, this work is collectively referred to as the "Project"; this term shall include the work that WWD may segregate until WWD has actually elected to segregate that work and contract for it separately; this term shall also accommodate changes made in the scope of the work in accordance with the contract documents for the Project. The engineer of County will be the representative of County for purposes of the administration of the public works contract relating to the Project during the construction period. WWD shall communicate with the contractor for the Project only through the engineer of County during the construction period. All material communications between WWD and the engineer of County shall be confirmed in writing by WWD or

its duly authorized agent. Except as otherwise provided in a writing delivered to the engineer of County, the engineer of WWD (specifically James G. Craig, P.E., of CENTRAC, or his designee) shall be its agent for the purposes of communicating with the engineer of County in connection with the Project. All portions of the Project relating to waterworks and sewer systems to be connected to or otherwise to become a part of the waterworks and sewer systems of WWD shall be constructed in accordance with the standards of WWD and shall be inspected by and subject to the approval of the engineer of WWD. The coordination of these inspections and approvals shall be negotiated in good faith by County and WWD as part of the development and preparation of the contract documents for the Project. Any and all rejections by the engineer of WWD of work performed in connection with the portions of the Project affecting the waterworks and/or sewer systems that are to be connected with or otherwise become a part of the water and/or sewer facilities of WWD shall be immediately communicated by the engineer of County to the contractor for the Project. The contract documents for the Project shall expressly provided that all such rejections shall constitute rejections by County under the contract documents for the Project, and shall also provide expressly that all rights of County relating directly or indirectly to the waterworks and sewer system to be connected to or otherwise to become a part of the waterworks and sewer systems of WWD shall be assignable to WWD and are hereby assigned to WWD effective as of the termination of this Agreement.

4. PAYMENT. County, and not WWD, shall be responsible for making payments to the contractor in accordance with the construction documents for the Project. WWD shall reimburse County for all costs paid by County under the contract documents relating to those portions of the Project that are described in Exhibit A, a copy of which is attached to this Agreement and which is incorporated into this Agreement by this reference, together with such other reasonable, clerical and administrative costs of County that are directly attributable to that portion of the Project that is described in Exhibit A. Such payments shall be due within thirty (30) days of the date that County mails its bill to WWD. Simple interest shall accrue at the rate of one percent per month on any unpaid balance of any delinquent bill. All bills shall contain sufficient details to satisfy all applicable laws and regulations and the state auditor.

5. TERMINATION OF RIGHTS OF COUNTY. County hereby disclaims, relinquishes jurisdiction over, and otherwise transfers and conveys to WWD any interest that County may have in (or with respect to) the waterworks and sewer systems that are a part of the Project, which transfer shall close and be

effective as of the termination of this Agreement. WWD accepts such interests, also as of the termination of this Agreement.

6. AGREEMENT TO BE FILED. County shall file copies of this Agreement with the county auditor of King County and with the secretary of state of the state of Washington. WWD shall file a copy of this Agreement with its secretary. These filings shall be made promptly following the execution of this Agreement by County and WWD.

7. DUTY TO DEFEND AND HOLD HARMLESS. Each party to this Agreement shall hold harmless and defend the other and the other's commissioners, council members, employees and agents against any and all claims, liabilities, damages, losses and expenses made against or incurred by the party being indemnified or its commissioners, council members, employees or agents but alleged or determined to have resulted from any act or omission of the indemnifying party or its agents. Without limiting the generality of the preceding sentence of this paragraph, this covenant to defend and indemnify is intended to apply to all damage to or loss of property (whether real or personal, tangible or intangible) and to personal injury, sickness, disease, or death, whether caused (or alleged to have been caused) negligently or otherwise by the indemnifying party or its agents. However, the covenant to defend shall not apply to allegations of concurrent negligence involving both parties to this Agreement or their agents and, in cases of concurrent negligence, the covenant to indemnify shall only apply to the proportion of the claim, liability, damage, loss or expense equivalent to the percentage of total fault attributed to the indemnifying party and its agents. Each party to this Agreement expressly waives the immunity or the Industrial Insurance Act (Title 51 RCW), which limits an employer's liability for its employees' job-related injuries, for the purposes of this covenant to defend and indemnify.

8. JOINT FUNDS OR PROPERTY. It is not contemplated that any funds or property will be held jointly by County and WWD in connection with this Agreement. If a need for joint funds or jointly owned property does arise, County and WWD shall negotiate in good faith regarding the disposition, and the audit and fiscal controls and the powers of each with respect to the investment and disbursement, of such funds, subject of course to such limitations as may be imposed by RCW 43.09.285 and any other applicable law, and shall negotiate in good faith regarding the acquisition, administration and disposition of such jointly owned, real or personal property.

9. INDEPENDENT CONTRACTOR STATUS. County and WWD agree that they are each acting as independent contractors with respect to the other. This Agreement is not an employment

agreement, nor does it constitute a joint venture or partnership between County and WWD.

10. AMENDMENTS AND MERGER. All amendments to this Agreement must be in writing and executed by both County and WWD. This Agreement incorporates the entire understanding of the parties and supersedes all prior or concurrent written or oral agreements relating to the relocation and construction of waterworks and sewer systems of WWD being done in connection with the relocation of Northeast 195th Street in Woodinville, Washington.

11. GOVERNING LAW; VENUE. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the state of Washington, as applied to contracts executed and fully performed in the state of Washington by residents of that state, and by all applicable federal laws. The venue for any proceedings to resolve any dispute between County and WWD relating to the subject of this Agreement shall be in Seattle, King County, Washington.

12. FAIR CONSTRUCTION. The language of this Agreement shall be deemed to have been chosen by the parties to express their mutual intent. Both of the parties have participated in the drafting of this Agreement. No rule of strict construction shall be applied against either party.

13. COUNTERPARTS. This Agreement may be executed in two or more counterparts, all of which shall constitute one and the same instrument. The signature pages of exact copies may be attached to one copy to form a complete document. Additional copies may also be executed in counterparts or otherwise.

Executed as of the date written at the beginning of this Agreement by the duly authorized representatives of County and WWD.

KING COUNTY, WASHINGTON

WOODINVILLE WATER DISTRICT

By _____
King County Executive

By _____
Max L. Pope, its Manager

Approved as to form:

Deputy Prosecuting Attorney

Date: _____, 1990