Signature Report

July 30, 2002

Motion 11485

Proposed No. 2002-0325.1   **Sponsors** Pelz and Irons

1   A MOTION authorizing the county executive to enter into

2   an interlocal agreement related to transportation

3   concurrency review with the city of Covington.

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6   WHEREAS, the county and the city of Covington ("city") have each adopted a

7   transportation concurrency program to implement the requirements of the state of

8   Washington's Growth Management Act, chapter 36.70A RCW, and

9   WHEREAS, the county's transportation concurrency management program

10   applies to developments in unincorporated King County and is described in K.C.C.

11   chapter 14.70, and

12   WHEREAS, the city's transportation concurrency program applies to

13   developments within the city, and

14   WHEREAS, development in unincorporated King County may cause an impact

15   on one or more transportation facilities in the city, and

16   WHEREAS, development in the city may cause an impact on one or more

17   transportation facilities in unincorporated King County, and

18   WHEREAS, the county's transportation concurrency model program provides for

19   a concurrency test for developments in unincorporated King County, and

20   WHEREAS, developments that pass the concurrency test are issued a certificate

21   of concurrency in which the certificate is a prerequisite for submitting a development

22   application, and

23   WHEREAS, an element of the county's concurrency test is an analysis for the

24   existence of critical links, and

25   WHEREAS, the county has identified a list of roadways that will be monitored

26   for critical link analysis, and

27   WHEREAS, the county applies its critical link standard only to that portion of a

28   monitored corridor that is located in unincorporated King County, unless the county

29   enters into an agreement with a city to include the portion of the monitored corridor

30   within that city in the county's concurrency test, and

31   WHEREAS, the county and the city desire that the county include those portions

32   of certain monitored corridors that are located inside the corporate boundary of the city

33   within the county's critical link analysis element of its concurrency test, and

34   WHEREAS, the city's transportation concurrency program provides for a

35   concurrency review for developments within the city in which developments that pass the

36   concurrency review are issued a certificate of concurrency, and

37   WHEREAS, the county and the city desire that certain arterial roadways in

38   unincorporated King County be treated as monitored corridors within the city's

39   transportation concurrency review, and

40   WHEREAS, the parties are each authorized to enter into an interlocal agreement

41   related to transportation concurrency review under chapter 39.34 RCW (the Interlocal

42   Cooperation Act) and Article 11, Section 11, of the Washington State Constitution;

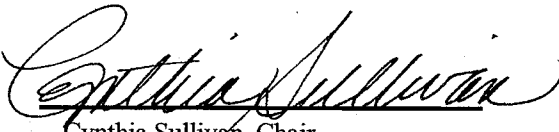43   NOW, THEREFORE, BE IT MOVED by the Council of King County:

44   The King County executive, on behalf of the citizens of King County, is hereby

45   authorized to execute, substantially in the form of Attachment A to this motion, an

46   interlocal agreement related to transportation concurrency review with the city of
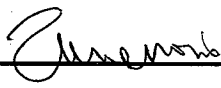
47   Covington.

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Motion 11485 was introduced on 7/22/2002 and passed by the Metropolitan King County Council on 7/29/2002, by the following vote:

> Yes: 11 - Ms. Sullivan, Ms. Edmonds, Mr. von Reichbauer, Ms. Lambert, Mr. Phillips, Mr. Pelz, Mr. Constantine, Mr. Pullen, Mr. Gossett, Ms. Hague and Ms. Patterson
> No: 0
> Excused: 2 - Mr. McKenna and Mr. Irons

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Cynthia Sullivan, Chair

ATTEST:

Anne Noris, Clerk of the Council

Attachments   A. An Interlocal Agreement Between the City of Covington and King County Related to Transportation Concurrency Review

AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF COVINGTON AND KING COUNTY RELATED TO TRANSPORTATION CONCURRENCY REVIEW

This Agreement is entered into by the City of Covington, a municipal corporation of the State of Washington ("the City") and King County, a political subdivision of the State of Washington ("the County").

RECITALS

A.   The County and the City have each adopted a transportation concurrency program to implement the requirements of the State of Washington's Growth Management Act, Chapter 36.70A RCW.

B.   The County's Transportation Concurrency Management ("TCM") program applies to developments in unincorporated King County and is described in Chapter 14.70 of the King County Code ("KCC").

C.   The City's transportation concurrency program applies to developments within the City and is described in Covington City Ordinance _____.

D.   Development in unincorporated King County may cause an impact on one or more transportation facilities in the City.

E.   Development in the City may cause an impact on one or more transportation facilities in unincorporated King County.

F.   The County's TCM program provides for a concurrency test for developments in unincorporated King County. Developments that pass the concurrency test are issued a certificate of concurrency. The certificate is a prerequisite for submitting a development application.

G.   An element of the County's concurrency test is an analysis for the existence of critical links. The County has identified a list of roadways that will be monitored for critical link analysis ("monitored corridors"). While the monitored corridors include roadways that are located within both unincorporated King County and the City, the County applies its critical link standard only to that portion of a monitored corridor that is located in unincorporated King County, unless the County enters into an interlocal agreement with a city to include the portion of the monitored corridor within that city in the County's concurrency test.

H.   The County uses a concurrency map based upon the County's traffic model, which displays the concurrency status of each concurrency zone for residential uses. The County also uses a list of zones that are within 10% of exceeding concurrency standards ("monitored zones"). For non-residential uses, the County will perform a concurrency test for each individual project using the County's traffic model. The traffic model is updated not less than once per year. Each

update is used to produce a new concurrency map and list of monitored zones for residential uses.

     I.   The County and the City desire that the County include those portions of certain monitored corridors that are located inside the corporate boundary of the City within the County's critical link analysis element of its concurrency test.

     J.   The City's transportation concurrency program provides for a concurrency review for developments within the City. Developments that pass the concurrency review are issued a certificate of concurrency.

     K.   The County and the City desire that certain arterial roadways in unincorporated King County be treated as monitored corridors within the City's transportation concurrency review.

     L.   The parties are each authorized to enter into this Agreement pursuant RCW Chapter 39.34 (the Interlocal Cooperation Act) and Article 11, Section 11, of the Washington State Constitution.

AGREEMENT

NOW THEREFORE, the parties agree as follows:

1.   County Responsibilities

     1.1   <u>Monitored Corridors</u>

          1.1.1   The County shall include within the critical links element of its concurrency test, in addition to those portions of the monitored corridors in unincorporated King County, the following portions of the monitored corridors located in the City:
SR 516/Kent Kangley Road—East city limits to west city limits
SE 240th Street—196th Avenue SE to 180th Avenue SE
SE 256th Street—SR 18 to west city limits
Covington Way SE—SE Wax Road to SR 516/Kent Kangley Road
SE Wax Road/180th Avenue SE/SE Wax Road—SE 240th Avenue to Covington Way SE

          1.1.2   The foregoing portions of the monitored corridors located in the City shall be included in the County's concurrency test when the County enacts the ordinances and regulations described in Section 1.5.

          1.1.3   Any changes to this list of monitored corridors shall require an amendment to this Agreement.

1.2   Concurrency Test

The County shall conduct its concurrency test for proposed developments in unincorporated King County using King County's TCM procedures and standards set forth in KCC Chapter 14.70, and using the County's traffic model, concurrency map and list of monitored zones. The County shall decide whether to issue a certificate of concurrency, except as provided in Section 1.4.

1.3.   Notification

The County shall provide the City with a copy of any concurrency application that the County receives that may have an impact on a monitored corridor in the City. The County shall notify the City quarterly, or more or less frequently by agreement of the parties, of: (1) the results of its concurrency test on any such application; and, (2) any appeals of the County's decision on any such concurrency application.

1.4   Joint Review

If a proposed development fails the critical links part of the County's concurrency test as a result of its impact on a monitored corridor within the City as listed in Section 1.1.1, the County shall deny the application for a certificate of concurrency, provided that the City may recommend to the County that a certificate of concurrency be issued conditioned on the applicant providing transportation improvements to the monitored corridor(s) that failed the County's analysis in order to accommodate the impacts of the development. The County may issue a conditional certificate of concurrency only if it incorporates the City's recommendation, and if otherwise authorized by KCC Chapter 14.70.

1.5   Implementation

The County shall enact any ordinances and regulations that may be necessary to implement this Agreement.

2.   City Responsibilities

2.1   Monitored Corridors

2.1.1   The City shall include within its concurrency review the following monitored corridors in unincorporated King County:

SR 516/Kent Kangley Road—207th Avenue SE to Jenkins Creek
132nd Avenue SE—North Kent city limits to SE 208th Street
Petrovitsky Road— SR 18 to 196th Avenue SE
SR 169—Maple Valley city limits to Cedar Grove Road

2.1.2 The foregoing monitored corridors located in unincorporated King County shall be included in the City's concurrency review when the City enacts the ordinances and regulations described in Section 2.5.

2.1.3 Any changes to this list of monitored corridors shall require an amendment to this Agreement.

2.2 <u>Concurrency Review</u>

2.2.1 The City shall perform the concurrency review for proposed residential developments in the City. The City shall decide whether to issue a certificate of concurrency, except as provided in Section 2.4.

2.2.2 The County shall perform the concurrency review for proposed non-residential developments in the City. The City shall provide the County with a copy of the concurrency application submitted to the City together with any information that may be required for the County to perform the concurrency review. The County shall perform the concurrency review for the City using the County's concurrency procedures and the County's traffic model. Level of service standards shall be those set forth in Covington City Ordinance _____. The County shall notify the City of the results of its concurrency review and any impact on County corridors. The City shall decide whether to issue a certificate of concurrency, except as provided in Section 2.4.

2.3 <u>Notification</u>

The City shall notify the County quarterly, or more or less frequently by agreement of the parties, of (1) the City's decision on any transportation concurrency application that will have an impact on the County corridors identified in Section 2.1 and (2) any appeals of the City's decision on any transportation concurrency application that will have an impact on the County corridors identified in Section 2.1.

2.4   Joint Review

If a proposed development fails the City's concurrency review because of its impacts on a monitored corridor within unincorporated King County as listed in Section 2.1.1, the City shall deny the application for a certificate of concurrency, provided that the County may recommend to the City that a certificate of concurrency be issued conditioned on the applicant providing transportation improvements to the monitored corridor(s) that failed the City's analysis in order to accommodate the impacts of the development. The City may issue a conditional certificate of concurrency only if it incorporates the County's recommendation, and if otherwise authorized by Covington City Ordinance _____.

2.5   Implementation

The City shall enact any ordinances and regulations that may be necessary to implement this Agreement.

3.   Shared Responsibilities

3.1   Administrative Appeals

Administrative appeals of City or County approvals, conditional approvals or denials of a certificate of concurrency shall be processed by the jurisdiction that issued the approval, conditional approval or denial using that jurisdiction's appeals procedures.

3.2   Exemptions

This Agreement shall not apply to projects exempted from concurrency review by the County or the City.

3.3   Financial Responsibility

Each party to this Agreement shall be responsible for its own costs associated with implementing this Agreement. The City shall reimburse the County for services the County provides to the City as set forth in the Interlocal Agreement for Provision of Roads Maintenance Services executed by the City on October 28, 1997, and by the County on January 5, 1998, as amended. In the event said Interlocal Agreement is terminated, the parties shall continue to follow the mechanism contained therein for requesting services related to transportation concurrency and reimbursement unless and until the parties enter into a new agreement covering that subject matter.

3.4.   Effective Date and Duration

This Agreement is effective upon signature by both parties. It shall continue in effect until terminated pursuant to Section 3.6. The City and County shall implement this Agreement upon the enactment of the ordinances and regulations as described in Sections 2.5 and 1.5 respectively.

3.5.   Amendment

Only an instrument in writing duly executed by the parties may amend this Agreement.

3.6.   Termination

3.6.1   Either party may terminate this Agreement upon sixty days (60) written notice to the other party provided that, prior to any notice to terminate this Agreement, both parties shall meet to seek good faith resolution of any dispute or cause for termination.

3.6.2   On and after the date of the termination, the County shall no longer include those monitored corridors located in the City described in Section 1.1.1 in the County's critical links element of its concurrency test, and the City shall no longer include those monitored corridors located in unincorporated King County described in Section 2.1.1 in the City's concurrency review.

3.6.3   The City shall reimburse the County for any outstanding costs for the services the County provided to the City through the date of termination.

3.7.   Indemnification

3.7.1   Each party shall be responsible at its sole expense for defending its own codes, ordinances and administrative decisions.

3.7.2   Each party shall protect, defend, indemnify, and hold harmless the other party, its officials, agents, and employees from any and all claims, actions, suits, liability, loss, costs, expenses, attorney's fees and damages, of any nature whatsoever, arising out of, or in any way resulting from, the indemnifying party's own negligent acts or omissions in carrying out the terms of this Agreement. In the event the indemnified party incurs any costs or expenses, including attorney's fees, to enforce the provisions of this section, all such costs, expenses, and fees shall be recoverable from the indemnitor.

The City and County acknowledge and agree that if such claims, actions, suits, liability, loss, costs, expenses, and damages are caused by, or result from, the concurrent negligence of the parties, this Section shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officials.

3.7.3. Both parties retain the right to participate in any third party suit regarding a concurrency determination made under this Agreement and shall cooperate with each other as reasonably required.

3.8   No Third Party Rights

This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other person or entity shall have any right of action or interest in this Agreement based on any provisions set forth herein.

3.9.   Severability

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected if such remainder would continue to serve the purposes and objectives of the parties.

3.10.   Non-Waiver

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 this Agreement.

3.11.   Administration

3.11.1 Responsible Officials. The Manager of the King County Road Services Division or his or her designee, and the City of Covington Public Works Director or his or her designee shall administer this Agreement.

3.11.2 Records. All records and documents with respect to the implementation of this Agreement shall be subject to inspection, review and audit by the County and City. Any request under this section will be made by advance notice in writing to the other party and shall be substantially complied with within thirty days (30) of the written notice.

3.12. <u>Survival</u>

The provisions of this Agreement shall survive the termination of this Agreement for any certificate of concurrency to which the terms of this Agreement apply that is issued by the County or the City prior to, or on the date of, such termination.

3.13. <u>Entire Agreement</u>

This Agreement contains the entire agreement of the parties and any representations or understandings, whether oral or written, not incorporated herein are excluded.

3.14. <u>Captions</u>

The captions in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.

3.15. <u>References</u>

References to the King County Code or Covington City Ordinance _____ refer to such code and ordinance as they now exist and as they may be hereafter amended, or their successors.

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

KING COUNTY   CITY OF COVINGTON

_____   _____
Ron Sims   Andrew D. Dempsey
King County Executive   City Manager, City of Covington

_____   _____
Date   Date

Approved as to Form: Approved as to Form:

_____   _____
Deputy Prosecuting Attorney   Duncan Wilson, City Attorney

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