



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 8, 2001

Ordinance 14097

Proposed No. 2001-0084.2

Sponsors Fimia

1 AN ORDINANCE authorizing the executive to enter into an
2 agreement with Northshore Utility District for local sewer
3 construction.

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BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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SECTION 1. The executive or the executive's designee is hereby authorized to

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enter into an agreement with Northshore Utility District, substantially in the form of

Ordinance 14097

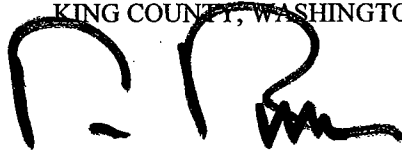
9 Attachment A to this ordinance, for construction of certain local sewers as part of the
10 county's Swamp Creek Interceptor project.

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Ordinance 14097 was introduced on 2/5/01 and passed by the Metropolitan King County Council on 5/7/01, by the following vote:

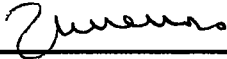
Yes: 12 - Mr. von Reichbauer, Ms. Miller, Ms. Fimia, Mr. Phillips, Mr. Pelz,
Mr. McKenna, Ms. Sullivan, Mr. Nickels, Mr. Pullen, Mr. Gossett, Ms.
Hague and Mr. Irons
No: 0
Excused: 1 - Mr. Thomas

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 4 day of May, 2001



Ron Sims, County Executive

Attachments A. Agreement for construction of Swamp Creek interceptor and local sewer dated April 26, 2001

NORTHSHORE UTILITY DISTRICT**KING COUNTY****AGREEMENT FOR CONSTRUCTION OF SWAMP CREEK INTERCEPTOR
AND LOCAL SEWER**

THIS AGREEMENT made and executed this _____ day of _____, 2001, between the Northshore Utility District, a municipal corporation of the State of Washington (hereinafter referred to as "the District") and King County, a home rule charter county in the State of Washington, acting through its Department of Natural Resources (herein after referred to as "the County"),

WITNESSETH:

WHEREAS, the parties have heretofore entered into a long term agreement for sewage disposal dated May 16, 1964 as amended (hereinafter referred to as the "Basic Agreement"); and

WHEREAS, the District also owns and operates a local sewer line that has been used since 1967 to convey sewage from Alderwood Water and Sewer District in Snohomish County to an existing county interceptor sewer south of the King-Snohomish County boundary; and

WHEREAS, use of the above mentioned local sewer line for such purpose has allowed the county to defer construction of a metropolitan sewer line to transport sewage from Alderwood Water and Sewer District and said deferral has resulted in substantial benefit to the county; and

WHEREAS, King County now intends to construct a metropolitan sewer line, the Swamp Creek Interceptor Sewer, as a part of its Metropolitan Sewerage System because the above mentioned local sewer no longer has adequate capacity to transport sewage from Alderwood Water District; and

WHEREAS, the District desires to construct local district sewers described in Section 2 of this agreement to serve portions of the District in the vicinity of the Swamp Creek Interceptor; and

WHEREAS, it is in the best interests of both the County and the District that the Swamp Creek Interceptor and said local sewers be constructed by the County's contractor during construction of the Swamp Creek Interceptor to obtain economies of coordinated construction and minimize inconvenience to adjacent property owners; and

WHEREAS, the county and the district have negotiated terms for the district's reimbursement of the cost of constructing Phase 1 of the local sewers described in Section 2 of this agreement; and

WHEREAS, the county and the district have also determined that construction of Phase 2 of the local sewers described in Section 2 of this agreement in the future at county expense would be a fair way to compensate the district for having transported sewage from Alderwood Water District to the county's existing interceptor system; and

WHEREAS, construction of the said Phase 2 local sewer line would enable abandonment of a 75 linear foot segment of existing local sewer line that crosses Swamp Creek which, in turn, would contribute to the protection and preservation of Swamp Creek;

NOW THEREFORE, in consideration of the mutual covenants contained herein it is hereby agreed as follows:

Section 1. Definitions

The defined terms used in this agreement shall have the meanings set forth in the Basic Agreement unless otherwise indicated herein.

Section 2. Construction of Local Sewage Facilities

King County shall construct certain local sewage facilities for and on behalf of the District. Said local sewage facilities shall be constructed in two phases in accordance with plans and specifications provided by the District.

Phase 1 shall consist of approximately 1280 linear feet of 8-inch and 6 inch diameter local sewer to be constructed along the same alignment as the Swamp Creek Interceptor. Phase 2 shall consist generally of 300 linear feet of 8-inch diameter local sewer to be constructed in the vicinity of the 6800 block of N. E. 204th Street. The general location of the local sewers that will be constructed is shown on Figure 1 attached hereto.

The Phase 1 local sewer shall be constructed in conjunction with construction of the County's Swamp Creek Interceptor Sewer. The Phase 1 local sewer and the Swamp Creek Interceptor Sewer together are hereinafter referred to as "the Phase 1 Project".

The Phase 2 local sewer, hereinafter "the Phase 2 Project", will be constructed after the Phase 1 Project as defined above is completed. King County will make every reasonable effort to complete construction of the Phase 2 Project within three years from the date that construction of the Phase 1 Project is completed.

The County will be the lead agency for all the work and will award and administer the construction contracts in accordance with state law.

The County shall make all disbursements to Phase 1 and Phase 2 Project contractors.

The County will allow the District to inspect the work performed in the District's interests at reasonable times before any work is covered. To accomplish this, the County 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 County.

Section 3. Easements for Local Sewer

The District will at its sole cost provide all easements required for the construction of the local sewage facilities and for any appurtenances thereto, it being recognized by the parties that King County has acquired easements only for the construction of its Swamp Creek Interceptor.

The District shall indemnify and hold the County harmless from any loss or liability whatsoever arising out of the failure of the District to have obtained all easement and rights of way necessary for the construction of the local sewers.

Section 4. Reimbursement by District

The County shall pay the entire cost of the Phase 2 Project described in Section 2. The District shall reimburse the county for the cost of the local sewer portion of the Phase 1 Project in the manner described in this Section 4.

The District's obligation to reimburse the county for the local sewer portion of the Phase 1 Project shall be met upon payment of an amount equal to three percent (3%) of the total cost of the construction contract for the Phase 1 Project or \$160,000, whichever is lower. The above percentage shall be applied to the accepted bid for the Phase 1 Project to determine the District's obligation.

All changes in costs attributable solely to the County's portion of the Phase 1 Project, whether due to changes in design, construction conditions or from contractor claims, shall be the sole obligation of the County.

All changes in costs attributable solely to the District's portion of the Phase 1 Project, whether due to changes in design, construction conditions or from contractor claims, shall be the sole obligation of the District.

All changes in costs attributable to a combination of the District's and the County's portions of the Phase 1 Project, the cause of which is outside the control of either party, whether due

to necessary changes in design, changed construction conditions, or from contractor claims, shall be the joint obligation of the District and the County. Such changes shall result in an adjustment to the District's obligation determined through application of the above percentages to the total cost for the specific change.

The cost of changes affecting both the District's and the County's portions of the Phase 1 Project, attributable to factors controllable by either party, and agreed to by both parties in advance of authorizing the change, shall result in the District's obligation being adjusted by an amount mutually agreed upon prior to authorization to proceed with the change being issued.

Payment shall be made to the County within 45 days of receipt by the District of a properly documented invoice.

Section 5. Ownership and Maintenance of the Local Sewer

Following completion of construction and acceptance of the contractor's work by the County, the District shall have the sole responsibility to operate, maintain, repair and replace the local sewage facilities constructed under this agreement.

Prior to final acceptance of the contractor's work by the County, the District and County shall participate jointly in the final inspection of the local sewer construction described in Section 2 and the District may make recommendations regarding deficiencies or work considered as incomplete in accordance with the construction contract. The County also agrees to pursue remedies available under the contractor's guaranty if so requested by the District.

Section 6. Legal Relations

A. Indemnification.

- a) The District and the County shall indemnify and hold harmless each other, their respective agents, contractors, officers, attorneys, successors and assignees from and against any and all liabilities, damages, claims, demands, judgments, losses, harm, costs, expenses, suits or actions caused by the negligent acts or omissions of the indemnifying party arising out of or in connection with this agreement.
- b) The County shall require the Contractor building the Phase 1 and Phase 2 Projects 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 County. The Contractor building the Projects shall be required to maintain Builder's Risk Insurance and Public Liability Insurance.

- c) The County shall require the Contractor building the Phase 1 and Phase 2 Projects 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 Projects.
- d) The County shall require the Contractor building the Phase 1 and Phase 2 Projects 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 shall be directed to the requirements of the Washington Industrial Safety and Health Act, WISHA, RCW 49.17.

B. No Third Party Beneficiaries. In promising performance to one another under this agreement, the parties intend to create binding legal obligations to and rights of enforcement in one another. The parties do not intend to create any legal obligation or liability or promise of performance to any third party.

C. Basic Agreement Unchanged. The District shall comply with all provisions of the Agreement for Sewage Disposal dated May 16, 1964, (the Basic Agreement) as amended without qualification or condition by reason of any provision or interpretation of this agreement, it being the intention of the parties that the said Basic Agreement shall not be affected or modified hereby.

D. Staff Time, Costs, and Incidental Expenses

- a) The parties shall separately bear the costs of their own staff time, engineering costs, and incidental expenses.
- b) The County will provide all contract administration and construction inspection services related to construction of the local sewers as incidentals to the cost of administering and inspecting the Swamp Creek Interceptor, with no charges to the District.
- c) The County shall bear all costs associated with soil testing during the design and construction phases of the project.
- d) Should any claims arise related to the water line and appurtenance relocation portion of the Projects, the County shall handle and administer such claims in the same manner as it would handle any other claims on the Projects. The County shall immediately notify the District and keep it informed as to the progress of the claim. The District will provide guidance to the County regarding proposed terms of settlement. Any decisions regarding the settlement or prosecution of a claim shall be approved by the District prior to being finalized. If the District and the County cannot agree as to the prosecution or settlement of a claim, the District may prosecute or defend the claim and the County 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 County from all damages the County suffers from the District's prosecution or defense of the claim.

Section 7. Notices and Other Communications

All notices and other formal communications to be delivered under this Agreement shall be mailed or delivered to the following:

Don Theiler, Manager
King County
Wastewater Treatment Division
201 S. Jackson Street
M/S KSC-NR-0500
Seattle, WA 98104

Northshore Utility District
John D. Hastig, Engineering Manager

or his designee
P.O. Box 82489
Kenmore, WA 98028-0489

Provided, however, the parties may change their respective designation of representatives by written notification to one another.

This Agreement may be signed in counterparts, and, if so signed, shall be deemed one integrated document.

Section 8. Termination

The County shall have the right to terminate this agreement upon 30 days notice at any time prior to award of the construction contract. In the event of such termination, the County shall reimburse the District for all project costs incurred up to the date of termination. This agreement shall otherwise terminate upon fulfillment of the obligations of the parties to each other.

Execution of this Agreement by the undersigned representatives of each party has been authorized by Ordinance/Motion No. _____ of the King County Council and Resolution No. 2000-_- of the Board of Commissioners of the Northshore Utility District.

IN WITNESS THEREOF, the parties have executed this agreement as of the day and year first above written.

NORTHSHORE UTILITY DISTRICT

Approved as to Form:

Attorney

(General Manager)

Attest:

KING COUNTY

Approved as to Form:

William Blakney, WSBA #16734
Sr. Deputy Prosecuting Attorney

Pam Bissonette, Director
Department of Natural Resources