

October 17, 1996

Introduced By:

ROB MCKENNA
KENT PULLEN

595M2

Proposed No.:

96 - 918

MOTION NO. **100184**

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A MOTION authorizing the King County Executive to execute an interlocal agreement between King County and the City of Kent relating to the 208th Street capital improvement project.

WHEREAS, the King County countywide planning policies, adopted and approved by the King County council and ratified by cities within the county, include policies calling for collaboration between the county and the cities that have designated potential annexation areas within the Urban Growth Area, in order to provide urban services and facilities within the potential annexation areas in a timely manner, and

WHEREAS, King County has responded to the rapid erosion of the County Road Fund's tax base resulting from annexations and incorporations by adopting a policy that allows the King County department of transportation, road services division, to continue to design and construct safety and operational improvements within potential annexation areas without financial participation by the affected city, but requires the King County executive to seek a cost-sharing arrangement with the affected city prior to awarding a construction contract on major growth-oriented roadway capacity improvements, and

WHEREAS, the city of Kent and King County both desire the timely completion of the county's Southeast 208th Street roadway capacity project, which lies within the city's potential annexation area, and

WHEREAS, the county has recently completed a study on the Alvord "T" bridge, located within the city's potential annexation area, and the county recommends that closure of the bridge be given serious consideration following completion of the Southeast 277th Street corridor improvements (Phase I) planned by the city of Kent, and

WHEREAS, the city intends to annex the area including the Alvord "T" bridge and has requested that the bridge be kept in operation until such time that the city can pursue a bridge replacement project, and

WHEREAS, the county has identified certain roadway improvements and repairs in the city's potential annexation area to the east and north of the recent Meridian Annexation,

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which are currently programmed for the 1997-2002 period, but which could be accelerated if additional appropriation authority is provided by the King County council;

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

The King County executive is authorized to execute an interlocal agreement, substantially in the form attached, between King County and the city of Kent relating to the county's SE 208th Street CIP project and other facilities in the city's potential annexation area.

PASSED by a vote of 13 to 0 this 16th day of December, 1996.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Jane Hague
Chair

ATTEST:

Gerald A. Peterson
Clerk of the Council

Attachments: Interlocal Agreement

**AN INTERLOCAL AGREEMENT
BETWEEN KING COUNTY AND THE CITY OF KENT
RELATING TO THE SOUTHEAST 208TH STREET
CAPITAL IMPROVEMENT PROJECT**

This Agreement is hereby made and entered into between King County, a home rule charter county, a political subdivision of the State of Washington (hereinafter called the "County"), and the City of Kent, a municipal corporation of the State of Washington (hereinafter called the "City").

WHEREAS, the Countywide Planning Policies, adopted and approved by the Metropolitan King County Council and ratified by cities within the County, include policies calling for collaboration between the County and the cities that have designated potential annexation areas within the Urban Growth Area, established pursuant to the Growth Management Act, in order to provide urban services and facilities within the potential annexation areas; and

WHEREAS, King County has responded to the rapid erosion of the County Road Fund's tax base resulting from annexations and incorporations by adopting a policy that allows the King County Department of Transportation, Road Services Division, to continue to design and construct safety and operational improvements within potential annexation areas without financial participation by the affected city, but requires a cost-sharing agreement with the affected city prior to awarding a construction contract on major growth-oriented roadway capacity improvements; and

WHEREAS, the City and County both desire the timely completion of the County's Southeast 208th Street roadway capacity project, which lies within the City's potential annexation area; and

WHEREAS, the County has recently completed a study on the Alvord "T" bridge, located within the City's potential annexation area, and the County recommends that closure of the bridge be given serious consideration following completion of the Southeast 277th Street corridor improvements (Phase I) planned by the City of Kent; and

WHEREAS, the City intends to annex the area including the Alvord "T" bridge and has requested that the bridge be kept in operation until such time that the City can pursue a bridge replacement project; and

WHEREAS, the County has identified certain roadway improvements and repairs in the City's potential annexation area to the east and north of the recent Meridian Annexation, which are currently programmed for the 1997-2001 period, but which could be accelerated if additional appropriation authority is provided by the King County Council;

SE 208th Street Interlocal Agreement
Page 2

NOW THEREFORE, pursuant to RCW 39.34, the County and City hereby agree:

1. PURPOSE. The purpose of this Agreement is to delineate the respective roles of the City and County in completing the design and construction of a major road widening project on Southeast 208th Street; and to clarify financial responsibilities for repairs to the Alvord "T" bridge, an improvement to Southeast 240th Street, and repairs to the roadway drainage system near Southeast 256th Street, west of 148th Avenue Southeast. The Southeast 208th Street project is programmed in the County Road CIP as Project No. 400186 and consists of widening the existing two-lane road between 116th Avenue Southeast and 132nd Avenue Southeast to a five-lane facility with four through lanes, a continuous center turn lane, five-foot bike lanes, curbs, gutters, sidewalks, illumination, signalization at 124th Avenue Southeast and at 132nd Avenue Southeast, retention/detention and water quality facilities and landscaping (hereinafter called the "Project"). The Project includes a short segment easterly of 132nd Avenue SE that will remain a two-lane road.

2. PROJECT MANAGEMENT AND COORDINATION. The County will be the lead agency for the completion of design, Right-of-Way (hereinafter called "ROW") acquisition and construction of the Project. Prior to finalizing the plans and specifications for the Project, the County will allow the City's Public Works Department to review the plans and specifications for potential cost savings that might result from substituting City road design standards for County standards. The County Road Engineer will determine whether to substitute City standards, as proposed by the City's Public Works Director.

3. COST-SHARING. Prior to the effective date of the County's capacity project cost-sharing policy (January 1, 1996), the County has appropriated a total of \$2,006,754 for CIP Project No. 400186 (the "Existing Appropriations"). These funds will be expended by the County on activities related to completing the Project, without any reimbursement from the City.

3.1 Additional Appropriation. An estimated \$7,319,000 additional appropriation is needed to complete ROW acquisition and construction of the Project. The County has acquired a Transportation Improvement Account (TIA) grant for CIP Project No. 400186. About \$2,000,000 in TIA funds are expected to be available as revenue for the additional appropriation, leaving \$5,319,000 to be covered by local revenues.

3.2 City's Liabilities Upon Annexation. The City agrees to reimburse the County for the undepreciated value of the County's investment in the Project (net of Existing Appropriations, the costs associated with the two-lane section easterly of 132nd Avenue,

and actual grants) at whatever point in the future the City annexes territory surrounding the Project. This reimbursement will be made as follows:

3.2.1 Annuity Established. Within thirty (30) days of completing construction of the Project, the County will establish and transmit to the City an annuity to depreciate the value of the County's investment over an assumed 20-year useful life of the Project, with a nominal annual interest rate of 4%. "Annuity Year" shall mean a 12 month period. If construction of the Project is completed prior to July 1, 1997, Annuity Year 1 shall commence on the first day of the first month following completion of construction of the Project, as certified to the City by the County Road Engineer. If construction of the Project is not completed by July 1, 1997, then Annuity Year 1 shall commence on July 1, 1997. Each succeeding Annuity Year shall commence on the anniversary of the commencement of Annuity Year 1. The initial value to be depreciated will be the total Project expenditures made by the County, less those funds appropriated prior to 1996, less the costs associated with the two-lane segment easterly of 132nd Avenue, and less any federal or state grant funding received by the County for the Project. [Attached is an illustrative estimated annuity schedule for the Project.]

3.2.2 Payment Options. Upon annexation of the surrounding territory, the City will have the option of making annual payments, pursuant to the annuity schedule, of the undepreciated value of the Project, or to make a lump sum payment. The City's obligation for making annual payments or a lump sum shall begin in the month of the Annuity Year in which the annexation takes effect. If the City elects to make annual payments, the City shall pay all moneys due for the remaining months of that Annuity Year, and for all remaining Annuity Years when due (see Section 3.2.3). If the City elects the lump sum option, the City lump sum will be adjusted, as necessary, for a partial Annuity Year based upon the effective date of the annexation. If the annexation takes effect before the Project construction is complete, the City's obligation begins in the first month of Annuity Year 1.

3.2.3 Payment Schedule. Within thirty (30) days of the effective date of a future annexation by the City of the territory surrounding the Project, the City will notify the County which payment option it chooses. Within thirty (30) days of receipt of this notice, the County will transmit to the City an invoice and payment schedule. The City will make payment within thirty (30) days of receipt of the invoice.

3.2.4 Partial Annexation. If a future annexation by the City includes a portion -- but not all -- of the territory surrounding the Project, the City will be obligated only for a pro rata allocation of the Project annuity. This pro rata allocation will be based on the portion of the total lineal feet of the Project that is included in the annexation area.

3.3 Mitigation Fees. The City shall not impose mitigation fees for this project on developments in unincorporated King County unless a reciprocal impact fee agreement with the County is executed and implemented.

4. SOUTHEAST 240TH STREET IMPROVEMENT. The County agrees to accelerate construction funding for the three-lane portion of the Southeast 240th Street improvement (between 132nd Avenue and 138th Avenue Southeast) from the year 2001 to 1996, so that this segment will be constructed at the same time as the five-lane segment which is the subject of a May 1996 interlocal agreement between the City and the County (estimated cost: \$569,000).

5. SOUTHEAST 256TH STREET DRAINAGE REPAIRS. The County agrees to include in a 1996 mid-year supplemental appropriation for the Roads CIP sufficient funds to replace existing enclosed drainage system at Southeast 256th Street, west of 148th Avenue Southeast with a fish passable box culvert (estimated cost of \$160,000). The County shall make all reasonable efforts to complete construction of this project as soon as practicable. If construction is not completed at the time the project site is annexed to the City, the County agrees to complete construction as expeditiously as possible at County cost. In addition, the City agrees to be the lead agency for replacing the existing flume in this location with a fish passable stream channel. The City and County agree to share in the cost of the flume replacement on a 50%/50% basis. The City, as lead agency, will prepare monthly progress billings and submit them to the County, which shall make payment within 30 days of receipt of the billing.

6. ALVORD "T" BRIDGE. The County agrees to include funds in the 1997-2002 Roads CIP to make repairs to the Alvord "T" bridge that are necessary to ensure the safe operation of the bridge at its current load rating for a five-year period (1997-2001). Following adoption of the County's 1997 Roads CIP appropriations, the County shall make the necessary repairs as soon as practicable. If the repairs are not completed at the time the Alvord "T" Bridge is annexed to the City, the County agrees to complete the repairs as expeditiously as possible at County cost. If the funds for this project in the 1997-2002 Roads CIP are inadequate to complete such repairs, the County may seek a joint-funding agreement with the City for the additional cost or may conclude that further expenditures are not in its interest and decide to close the bridge permanently to vehicular traffic following procedures described in this section. The bridge is currently load-rated for one truck at a time, with a limit of 20 tons for a three-axle (Truck Type 3), 30 tons for a five-axle (Truck Type 3S2), and 40 tons for a six-axle (Truck Type 3-3). At any time following the five-year period, if the bridge remains under County jurisdiction, the County may decide to close the bridge permanently to vehicular traffic. If the County so decides to close the bridge permanently, the County will provide the City with six months advance notice prior to initiating formal bridge closure procedures pursuant to the State

Environmental Policy Act and other pertinent statutes, in order to allow the City to determine whether it desires to assume financial responsibility for maintaining, repairing and/or replacing the bridge. This assumption of financial responsibility may take the form of a completed annexation of the bridge or an interlocal agreement accepting the responsibility for the bridge. If the City takes either of these actions prior to the end of the six month notice period, the County will not initiate formal bridge closure procedures.

7. RELATIONSHIP TO EXISTING LAWS AND STATUTES. This Agreement is in no way intended to modify or supersede existing laws and statutes and shall be construed in a manner which is consistent therewith. In meeting the commitments encompassed in this Agreement, all parties will comply with the requirements of the annexation statutes, Open Meetings Act, State Environmental Policy Act, Growth Management Act, the King County Countywide Planning Policies, the King County Comprehensive Plan and any other applicable laws and regulations.

8. POTENTIAL POLICY CHANGE. If the County's annexation policy regarding major roadway capacity improvements is amended in a manner that is more favorable to cities in King County with respect to requiring cost-sharing agreements for such projects, then the parties shall reopen negotiations with respect to the cost-sharing provisions of this Agreement. Additionally, if the County's road capacity improvement annexation policy is repealed or so substantially altered that its effect is essentially void, then the portions of this Agreement requiring City payments in the event of future annexations shall also be void.

9. ADMINISTRATION

9.1 Project Team. The provisions of this Agreement will be managed by a Project Team composed of the King County Executive or designee and the Mayor of Kent or designee, with additional staff to be determined by each party.

9.2 Administrative Procedures. The Project Team will meet as necessary to ensure that the provisions of this Agreement are fulfilled and will develop written procedures and records as required to accomplish the work of this Agreement.

9.3 Conflict Resolution. The Project Team will use consensus to reach agreements. In the event consensus cannot be reached on an issue, the parties will first seek the assistance of a neutral mediator, selected jointly. If the issue still cannot be resolved, the issue will be forwarded to the legislative authorities of the City and County for resolution.

10. VENUE AND APPLICABLE LAW. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under

SE 208th Street Interlocal Agreement
Page 6

this Agreement, the parties hereto agree that any such action shall be initiated in the King County Superior Court of the State of Washington. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the King County Superior Court in accordance with the laws of the State of Washington.

11. TERMINATION. This Agreement is effective upon approval by the governing bodies of the City and County and upon signature of the parties. The Agreement shall continue to be in effect from year to year unless terminated upon written agreement by both parties.

12. AUDITS AND INSPECTIONS. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review or audit by the County or the City during the terms of this Agreement and three (3) years after termination.

13. NON-WAIVER OF BREACH. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

14. MODIFICATION. No waiver, alteration, or modification of any of the provisions of this agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the County.

15. ENTIRE AGREEMENT. This written agreement supersedes all prior verbal statements of any officer or other representative of the City and the County, and those statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this agreement. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement.

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

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

KING COUNTY

CITY OF KENT

100184

SE 208th Street Interlocal Agreement
Page 7

By _____

By _____

its _____

its _____

Date: _____

Date: _____

Attest: _____

Approved as to form:

Approved as to form:

By _____
Deputy Prosecuting Attorney

By _____
Kent City Attorney