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12-046

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF WOODINVILLE AND  
WOODINVILLE WATER DISTRICT FOR THE REIMBURSEMENT OF THE CITY'S  
PREPARATION COSTS TO INCLUDE CONTRACT ADMINISTRATION COSTS,  
CONSTRUCTION MANAGEMENT COSTS AND CONSTRUCTION OF DISTRIBUTION  
FACILITIES ON NE WOODINVILLE-DUVALL ROAD**

THIS AGREEMENT ("Agreement") is entered into between the **City of Woodinville**, a Washington Municipal Corporation, located and doing business at 17301 133<sup>rd</sup> Avenue NE, Woodinville, Washington 98072 ("CITY") and **Woodinville Water District**, a Washington Municipal Corporation, located and doing business at 17238 NE Woodinville-Duvall Road, Woodinville, Washington 98072 ("DISTRICT"); (individually a "Party" and collectively the "Parties").

**RECITALS**

- A. The CITY is constructing roadway improvements to NE Woodinville-Duvall Road between 156<sup>th</sup> Avenue NE and 171<sup>st</sup> Avenue NE within the City of Woodinville, Washington ("PROJECT").
- B. The DISTRICT desires to upgrade and replace its water distribution facilities ("DISTRICT WORK") between 156<sup>th</sup> Avenue NE and 171<sup>st</sup> Avenue NE.
- C. The CITY is willing to include the installation of the DISTRICT WORK as part of the PROJECT conditioned on the DISTRICT reimbursing the CITY for the actual costs, charges and expenses paid by the CITY to its Contractor for the Contractor's performance of the DISTRICT WORK and the DISTRICT's agreement to the terms and conditions of this Agreement.
- D. The Parties can achieve cost savings and benefits in the public's interest by combining construction of PROJECT and DISTRICT WORK by enhanced agency coordination and reduced contract administration. Inclusion of the DISTRICT's WORK with the PROJECT will also greatly reduce disruption to traffic during construction of both projects.
- E. The Parties are authorized to undertake joint and cooperative action pursuant to Chapter 39.34 RCW.

**AGREEMENT**

**Section 1. General:** The CITY, as agent acting for and on behalf of the DISTRICT, agrees to perform the DISTRICT WORK, in accordance with and as described in the Draft Scope of Work marked **Exhibit A** and Draft DISTRICT SCHEDULE marked **Exhibit B** attached hereto, which by this reference are made part of this Agreement.

**Section 2. Construction Plans:** Plans, Specifications and cost estimates for the DISTRICT WORK have been prepared by the DISTRICT generally in accordance with the 2012 State of Washington Standard Specifications for Road, Bridge and Municipal Construction, DISTRICT Standard Specifications as applicable and adopted design standards ("Plans and Specifications"). The DISTRICT hereby approves the Draft Scope of Work for the DISTRICT WORK as described in **Exhibit A** attached hereto and incorporated herein by this reference ("Draft Scope of Work").

**Section 3. Bidding and Construction:** The CITY is hereby designated the DISTRICT's construction agent for the PROJECT. The CITY will incorporate the DISTRICT'S Plans and Specifications into the PROJECT and provide a separate additive schedule "DISTRICT SCHEDULE" to the PROJECT contract in such a manner as to allow, to the greatest extent possible, identification of cost allocations between the respective work for the Parties. The DISTRICT shall finalize and approve the DISTRICT SCHEDULE prior to advertisement for bid. The CITY shall thereafter advertise the resulting PROJECT for competitive bid. Following the CITY'S receipt of bids for the PROJECT work, the CITY shall furnish the DISTRICT with the bid, bid prices, and the list of contractors for the DISTRICT WORK for the DISTRICT's review with identification of the lowest responsible bidder. The DISTRICT shall review the submitted bids and the list of contractors and notify the CITY in writing within ten (10) business days of the receipt of the bid whether the DISTRICT approves or rejects the bid for the DISTRICT WORK. The DISTRICT agrees to make payment to the CITY in the amount of \$17,000.00 within thirty (30) days of the execution of this Agreement to compensate the CITY for the extra expense incurred to have its consultant prepare the bid documents to include the DISTRICT's WORK in the PROJECT bid documents.

The DISTRICT shall provide the CITY a final ENGINEER'S ESTIMATE for the work associated with the DISTRICT SCHEDULE thirty (30) days prior to advertisement for bid. The DISTRICT has the right to reject the bid for DISTRICT WORK if the bid exceeds the engineer's estimate for the DISTRICT WORK by ten percent (10%). The CITY shall not proceed with the DISTRICT WORK if the CITY has received written notification from the DISTRICT within ten (10) days of the date of written notice from the CITY staff of their determination of the lowest responsible bid, that the DISTRICT rejects the bid(s). Bid award shall be made to the lowest responsible bidder for the total cost of the PROJECT, including the DISTRICT's SCHEDULE, subject to applicable laws and regulations. However, if the DISTRICT rejects the bid for the DISTRICT WORK, this Agreement shall become null and void at the time of rejection, and neither Party shall have any further obligation or responsibility to the other Party.

Once the PROJECT contract is awarded, the CITY will administer and manage the contract. As construction agent, the CITY will perform all engineering and field inspections for the CITY Work, and shall make all payment to the Contractor. The DISTRICT shall provide an inspector for the DISTRICT WORK and will coordinate any engineering design changes with the CITY. The CITY will keep the DISTRICT advised as to the progress of the PROJECT work. The CITY, as construction agent, shall have

final judgment, after consulting with the DISTRICT, with regards to decisions related to the work of the Contractor.

**Section 4. Authority to Construct:** Subject to the provisions in Section 3 herein, the DISTRICT hereby authorizes the CITY to proceed with construction in accordance with DISTRICT WORK and DISTRICT SCHEDULE for the purpose intended by this Agreement, and as further described in Section 8.

**Section 5. Inspection by District:** The DISTRICT shall furnish an inspector on the PROJECT to inspect the District Work. Any costs for such inspection will be borne solely by the DISTRICT. All contact between the DISTRICT's inspector and the CITY's Contractor shall be through the CITY's representatives. Any submittals for material used in the construction of the DISTRICT WORK, shall be reviewed and approved by the DISTRICT. The DISTRICT shall receive from the CITY all submittals associated with DISTRICT WORK such that the DISTRICT shall have a reasonable time to review such submittals. It is the Parties intent that all DISTRICT WORK shall be at the sole cost and expense of the DISTRICT, meeting or exceeding the DISTRICT's Standards, but the CITY, as construction agent, shall have final judgment, after consulting with the DISTRICT with regard to decisions related to the work of the Contractor.

**Section 6. Acceptance:** The CITY shall conduct a field review of each constructed facility with representatives of the DISTRICT and with the intent that all punch list items will be corrected to the satisfaction of the DISTRICT and the CITY before final acceptance by the CITY. The DISTRICT agrees, upon satisfactory completion of the work involved as determined by the DISTRICT, to deliver to the City a Letter of Acceptance of the DISTRICT WORK, the timely delivery of which shall not be unreasonably withheld. The DISTRICT'S acceptance of the DISTRICT WORK shall not constitute acceptance of any unauthorized or defective work or materials, nor be a waiver of any manufacturer's, supplier's or contractors' warranties. Final acceptance of the PROJECT shall be by the CITY after inspection by all agencies involved.

**Section 7. Payment:** The DISTRICT, in consideration of the faithful performance of the work to be done by the CITY, agrees to reimburse the CITY for the actual direct construction cost of all work specified in the DISTRICT SCHEDULE as well as a portion of mobilization, erosion control, and asphalt treated base (ATB) as follows; mobilization costs shall be seven percent (7%) of the bid contract for the DISTRICT's WORK, as provided in the DISTRICT SCHEDULE of the awarded contract; the DISTRICT share of Erosion Control shall be the proportionate share based on DISTRICT WORK costs bid by the contractor versus total PROJECT costs bid by the contractor; and ATB costs shall be fifty percent, (50%) of the bid costs for the actual amount of ATB used the DISTRICT portion, (Station 21+33 to Station 53+65) of the PROJECT. The DISTRICT also agrees to pay the actual costs for the CITY's hired construction manager for administration costs specifically associated with the management of the DISTRICT's WORK based on actual time records and invoices.. Payment shall be made by the DISTRICT to the CITY within forty-five (45) calendar days of the DISTRICT'S acceptance of the DISTRICT WORK as referenced in Section 6, upon the request of the CITY.

The CITY is required to make partial monthly payments to the Contractor for work completed in accordance with the contract requirements of the PROJECT. These periodic payments may or may not include work performed by the Contractor that is DISTRICT WORK. If the periodic partial payment includes payment to the Contractor for DISTRICT WORK, the CITY will send an invoice to the DISTRICT for the value of DISTRICT WORK completed that is being paid to the Contractor, including applicable sales taxes in that partial payment.

When the CITY receives a request for partial payment from the Contractor that includes payment for DISTRICT WORK, the CITY will send a copy to the DISTRICT for their review within five (5) days of receipt. If the DISTRICT disagrees with the Contractor's request for payment for work completed as listed in the DISTRICT SCHEDULE, the DISTRICT shall notify the CITY of the disagreement within five (5) calendar days of the date the request was sent to the DISTRICT. If the DISTRICT does not respond within five (5) calendar days, it shall be assumed for the purpose of this Agreement that the DISTRICT agrees with the request for payment by the Contractor. Except for disputed requests for payment, the DISTRICT agrees to pay such invoices within forty-five (45) calendar days of the invoice date sent by the CITY; thereafter the invoice shall accrue simple interest at a rate of 6% per annum from the date of billing.

The DISTRICT agrees to make final payment within forty-five (45) calendar days of invoice date sent by the City; thereafter the bill shall accrue simple interest at the rate of one (1) percent per month.

**Section 8. Extra Work:** If unforeseen causes require an increase in the DISTRICT's cost obligation of ten percent (10%) or more from the cost included in ENGINEER'S ESTIMATE, this Agreement shall be modified and amended by supplemental agreement covering the increased cost for the DISTRICT WORK. In the event it is determined that any SUBSTANTIAL CHANGE, (defined as any changes requiring an increase in the DISTRICT's financial obligation (per ENGINEER'S ESTIMATE) greater than ten percent (10%)), from the description of the work contained in the Agreement is required, the CITY shall obtain written approval from the DISTRICT before undertaking such additional or changed work. . The CITY shall provide prior written notice for all changes to the DISTRICT's portion of the work regardless of the financial obligation. Any increased costs, expenses, or damages incurred by the CITY due to delay in obtaining required approvals from the DISTRICT, shall be paid by the DISTRICT to the CITY consistent with Section 7 above.

**Section 9. Emergency Repairs:** Prior to CITY acceptance of the Contractor's work, if there is a need for emergency repair and the CITY's contractor is unable to perform such repair in a timely manner, the DISTRICT or the DISTRICT's agent, shall have the right to enter upon the CITY's right-of-way and complete said emergency repair. Emergency repairs are defined as work performed by CITY or DISTRICT forces to stabilize, remove immediate hazards or dangers by cutting and capping water mains, and restoring immediate utility services to customers in the area. Upon completion of any emergency repairs by the CITY or the DISTRICT, the CITY and the DISTRICT shall cooperatively determine each Party's financial responsibility.

**Section 10. Ownership of Completed Lines:** The CITY agrees that the DISTRICT WORK become the property of the DISTRICT on the date the CITY receives full payment for the DISTRICT WORK. The CITY will forward and assign to the DISTRICT any guarantee or warranty furnished as a normal trade practice in connection with the purchase of any equipment, materials, or items used in the construction of the PROJECT. The CITY shall submit redline drawings to the DISTRICT upon completion of the PROJECT for DISTRICT review and approval. The CITY's Contractor shall warrant the workmanship and materials utilized in the DISTRICT WORK to be free of defects for a period of two (2) years from the date of transfer; provided the DISTRICT shall retain any rights, claims or demands the DISTRICT may have against the CITY's contractor relating to the DISTRICT's WORK under applicable statutes of limitation.

**Section 11. Legal Relations:** Each Party agrees to hold harmless and indemnify the other, its elected and appointed officials, agents, and employees from any and all costs, claims, demands and obligations of whatsoever nature caused by the Party's sole negligence or the Party's concurrent negligence, but only to the extent of the Party's concurrent negligence, and arising by reason of participation in or connection with the DISTRICT's utility facilities work described by this Agreement, including, but not limited to, claims by the Contractor for additional compensation related in any way to utility relocation work.

The CITY shall require the Contractor constructing the PROJECT to have the DISTRICT, its elected and appointed officers, agents and employees named as an insured by specific endorsement on all policies of insurance to be maintained by contractor(s) under the terms of any PROJECT contract(s), with the CITY contractor building the PROJECT required to maintain Commercial General Liability Insurance, Commercial Automobile Insurance and Workers Compensation. The Contractor shall provide the CITY with either a certified copy of all policies with endorsements attached or a Certificate of Insurance with endorsements attached as are necessary to comply with the contract specifications. The CITY shall provide the DISTRICT with copies of all such policies and documents upon receipt of same by the CITY.

The CITY shall require the Contractor building the PROJECT to indemnify, defend, and save harmless the DISTRICT and its elected and appointed officers, agents, or employees from any claim, damage, action, liability of proceeding brought or filed against the DISTRICT or its officers, agents or employees alleging damage or injury arising out of the Contractor's participation in the PROJECT. The Contractor shall also be required to waive the Contractor's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the DISTRICT solely for the purposes of the indemnification.

**Section 12. Termination:** This Agreement may only be terminated by written mutual agreement of the Parties, except as provided below:

A. The CITY has the right to terminate this Agreement if the CITY determines not to undertake the PROJECT or to discontinue the PROJECT; provided the DISTRICT shall be responsible only for costs incurred by the CITY prior to the CITY's notice of termination to the DISTRICT.

B. The DISTRICT can terminate and proceed anytime before the CITY's PROJECT contract for construction is awarded to the lowest responsible bidder as agreed by the DISTRICT in Section 3; provided the DISTRICT shall be responsible only for costs incurred by the CITY prior to the DISTRICT's notice of termination to the CITY.

C. This Agreement shall terminate when the CITY's Council accepts the CITY's construction PROJECT as complete and all payments for reimbursement are made by DISTRICT.

**Section 13. Resolution of Disputes and Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from the Parties' performance of this Agreement, the exclusive means of resolving that dispute, difference or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court located in Seattle, King County, Washington, unless the Parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the Parties' performance of this Agreement, the prevailing party shall be entitled to judgment against the other for all its reasonable legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law, provided, however, nothing in this paragraph shall be construed to limit the CITY's or DISTRICT's right to indemnification under Section 11 of this Agreement.

**Section 14. Written Notice:** Any notice under this Agreement will be in writing and shall be delivered by mail or hand delivery (copies may be emailed) to the Parties as specified below:

**If to the DISTRICT:** Woodinville Water District  
17238 NE Woodinville-Duvall Road  
P.O. Box 1390  
Woodinville, WA 98072  
Attn: Ken Howe, P.E.  
Email: [khowe@woodinvillewater.com](mailto:khowe@woodinvillewater.com)

**If to the CITY:** City of Woodinville  
17301 – 133<sup>rd</sup> Avenue NE  
Woodinville, WA 98072  
Attn: Thomas E. Hansen, P.E.  
Email: [tomh@ci.woodinville.wa.us](mailto:tomh@ci.woodinville.wa.us)

Either Party may change the above addresses to which notices are sent by giving notice of such change to the other Party in accordance with the provisions of this Section.

**Section 15. Assignment:** Any assignment of this Agreement by either Party without the written consent of the non-assigning Party shall be void.

**Section 16. Modification:** No waiver, alteration, or modification of any of the provisions for the Agreement shall be binding unless in writing and signed by a duly authorized representative of the CITY and the DISTRICT.

**Section 17. Entire Agreement:** The written provisions and terms of this Agreement together with any attached Exhibits, shall supersede all prior verbal statements of any officer or other representative of either Party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. This document, including all Exhibits, is the entire Agreement between the Parties. Should any language in any of the Exhibits to the Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

**Section 18. Effective Date:** This Agreement shall be effective as to all Parties on the last date signed below ("Effective Date").

**IN WITNESS WHEREOF, this Agreement** is executed by the Parties by their authorized officers indicated below

EXECUTED, this 19<sup>th</sup> day of June, 2012.

CITY OF WOODINVILLE

WOODINVILLE WATER DISTRICT



Richard A, Leahy  
City Manager

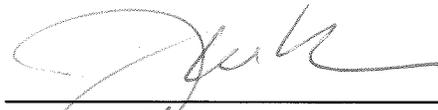
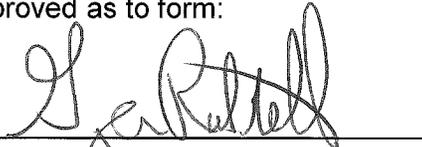
Ken Howe, P.E.  
General Manager

Date Signed 7/19/2012

Date Signed June 19, 2012

Approved as to form:

Approved as to form:



Greg Rubstello  
City Attorney

John Milne  
Woodinville Water District Attorney

**EXHIBIT A**  
**DRAFT SCOPE OF WORK**

**CITY PROJECT**

**DISTRICT WORK**

**DRAFT SCOPE OF WATER MAIN WORK**

These Special Provisions outline the technical requirements for the construction of a water main system. All references to the "DISTRICT" mean the Woodinville Water District or their authorized representative.

The water main system includes the installation of approximately 4,300 linear feet of 12-inch ductile iron water main, approximately 350 linear feet of 8-inch ductile iron water main pipe, valves, fittings, 12 cut-in connections to existing water mains, reconnect and/or relocate 41 water services, remove 5 existing fire hydrants and auxiliary gate valves and blind flange existing tees, 12 new fire hydrants, and abandoning or removing approximately 4,650 linear feet of existing 6-or 8-inch asbestos cement (AC) pipe. Most of the existing AC pipe will be abandoned in place but some AC pipe may need to be removed between STA 47+65 and 53+64, plus as needed when AC interferes with the proposed storm crossings. Existing valve boxes will require adjustment to grade. Also included is the proper disposal of the asbestos cement pipe when removed from the PROJECT site.

Construction sequence for the water main work is shown on the water main replacement plans. Contractor shall follow the sequence or provide the DISTRICT with an alternate plan for review. Contractor shall also coordinate the water main work with the storm and roadwork included elsewhere in these specifications. The construction sequence on the plans does not include coordination with the other parts of the work.

**CONSTRUCTION WORK SCHEDULE**

The estimated start date for construction of the PROJECT, including DISTRICT WORK, and PAVEMENT RESTORATION, is . The anticipated duration is working days.

**EXHIBIT B**  
**DRAFT DISTRICT SCHEDULE**

**Table B-1: Engineer's Estimate for District Work**

**Woodinville Water District**  
**Woodinville-Duvall Road AC Water Main Replacement Project**  
 12/9/2011  
 141002

Item No.	Description	Quantity	Unit
1.	12-Inch D.I. Water Pipe (7-09)	4,300	LF
2.	8-Inch D.I. Water Pipe (7-09)	350	LF
3.	12-Inch Gate Valve Assembly (7-12)	16	EA
4.	8-Inch Gate Valve Assembly (7-12)	10	EA
5.	Remove & Dispose of Existing AC Water Main (2-02)	750	LF
6.	Remove & Dispose of Existing Fire Hydrant (2-02)	5	EA
7.	New Fire Hydrant Assembly (7-14)	12	EA
8.	Resetting Existing Fire Hydrant (7-14)	1	EA
9.	Reconnecting Existing Fire Hydrant (7-14)	2	EA
10.	Reconnect Existing Near Side Service (7-15)	10	EA
11.	Relocate and Reconnect Ex Near Side Service (7-15)	13	EA
12.	Reconnect Existing Far Side Service (7-	5	EA

13.	15) Relocate and Reconnect Ex Far Side Service (7-15)	12	EA
14.	Customer Side Reconnection over 10 feet (7-15)	100	LF
15.	Ductile Iron Fittings (7-09)	14,000	Lbs.
16.	Connection to Existing Water System (7-09)	12	EA
17.	Potholing for Utility Crossings (7-09)	30	EA
18.	Temporary Baker Tank & Water Truck, As Necessary	1	LS
19.	Adjust Existing Valve Box to Grade (7-12)	2	EA
20.	Traffic Control	1	LS
21.	Imported Backfill Gravel	5,800	Ton
22.	Crushed Surfacing (Old Wood-Duvall Road)	740	Ton
23.	Controlled Density Fill	100	CY
24.	Hot Mix Asphalt (Old Wood-Duvall Road)	500	Ton
25.	Asphalt Grinding (Old Wood-Duvall Road)	2,200	SY
26.	Temporary Trench Patch (Old Wood- Duvall Road)	600	SY
27.	Trench Safety / Shoring (RCW 49.17/39.04.180)	1	LS

