I-06-005

Contract # 3939
(Obtain from City Clerk)

CONTRACT REVIEW/APPROVAL ROUTING FORM

INSTRUCTIONS:

1. First time original contracts
a.) Contact City Clerk's Office for Contract Number
b.) One copy of the contract routing form
c.) Three original contract documents

2. Amendments/Change Orders
a) Contact City Clerk's Office for a NEW Contract #
b) One copy of the contract routing form
c) Three original amendments/change orders
d) One copy of the original contract

CONTRACT DESCRIPTION

Originator: Kirk McKinley/Phil Ramon **Routed by:** Catherine Lander
Department/Division: Aurora/Interurban Trail Team **Date:** August 28, 2006

Type of Contract: ☐ (C) Building Construction ☐ (L) Lease Agreement ☒ (I) Intergov't Agreement
☐ (A) Addendum/Change Order ☐ (W) Public Works ☐ (O) Other
☐ (GR) Grants ☐ (S) Purchase of Services *(all types)*

CONTRACT TITLE: Memorandum of Agreement (MOA)
Brief Description of Services: MOA between King County & City of Shoreline to transfer funding between two agencies for Aurora Corridor Project (N 165 - N. 205)
Contract Modification: Has the original contract boilerplate language been modified? N☐ Y☒ If yes, list which sections have been modified. _____
Bid/RFP Number: N/A

Name of Consultant/Contractor King County Metro

Effective Date: Upon Execution **Termination Date:** MOA - Section 7

Total Amount of Contract: $1,401,742.10 **OrgKey # & Object #** 2918161 - 5630
(including reimbursable expenses) **J/L #** (if required) ST106300 - 0601
Is there sufficient funds in the current budget to cover this contract? Y☒ N☐ If no, from where are the additional funds coming? _____

Payment Terms *(monthly installments, progress payments, etc.)*: Progress Biling

Remarks: See Attached Memo

SIGNATURE ROUTING:

		Date
☒ 1. Project Manager/Director	KM 8-29-06	
☒ 2. Risk Mgmt/Budget	8/29/06	
☒ 3. City Attorney	8/29/06	
☐ 4. Send to Consultant for signature (only send contract documents)		
☒ 5. City Council Approval (if required)	8/28/2006 (mo/day/year)	
☒ 6. City Manager (if required)		8/30/2006
☐ 7. Dept. Director (if authorized)		
☒ 8. City Clerk		10/30/06
☒ 9. Purchasing		

CITY OF SHORELINE

Memorandum

DATE: August 28, 2006

TO: Bob Olander, City Manager

FROM: Paul Haines, Public Works Director
Kirk McKinley, Aurora Corridor Project Manager

RE: **Memorandum of Agreement between the City of Shoreline and King County Metro - Aurora Corridor Project – Phase II**

Background: The attached Memorandum of Agreement (MOA) is attached for your signature.

Contractor Name and Project: The MOA is between the City of Shoreline and King County Metro.

Scope of Services: The City of Shoreline will transfer Federal Transit Administration (FTA) funding to King County and King County will transfer local funding to the City for the Aurora Corridor Project (N. 165th – N. 205th)

Selection Process: A selection process is not required for execution of the attached MOA.

Financial Impact: The MOA provides for the transfer of $1,475,518 of Federal Transit Administration (FTA) funding to King County Metro. King County Metro shall transfer local funds totaling $1,401,742.10 to the City of Shoreline. These funds will be programmed in the Aurora Corridor Project (N 165th St – N. 205th St). FTA funds require a 20% match while King County local funds do not require a match. King County Metro plans to obligate the FTA funds by September 30, 2006.

Council Review: Council authorized the City Manager to execute the MOA at their meeting of August 28, 2006.

Schedule: The execution of the MOA and King County shall occur by September 30, 2006.

King County
Department of Transportation

Office of Regional Transportation Planning
Grants Management Section

201 South Jackson Street.
Mailstop KSC-TR-0814
Seattle, WA 98104-3856

October 20, 2006

Mr. Phil Ramon
City of Shoreline Public Works Department
17544 Midvale Ave North
Shoreline, WA 98133

Dear Mr. Ramon,

Enclosed, please find a fully executed copy of the Memorandum of Agreement between the City of Shoreline and King County covering the exchange of Federal Transit Administration funds for local County Funds.

I greatly appreciate your assistance putting this agreement together in a realtively short time frame. Should you require any additional information or assistance, please do not hesitate to give me a call at (206) 684-2154.

Sincerely,

David Morrison
Grants Administrator
King County Department of Transportation

Cc: Kirk McKinley w/enclosure

Encl.

Shoreline
City Clerk
Receiving
Number
3939

Memorandum of Agreement
between
King County Metro and the City of Shoreline
Relating to
The Aurora Avenue North Multi-Modal Corridor Project

This Agreement is made and entered into this 18th day of October, 2006 between KING COUNTY, through its Department of Transportation, referred to herein as the "County", a home rule charter county of the State of Washington, and the City of Shoreline, referred to herein as the "City".

WHEREAS, the City is currently planning and doing preliminary engineering on a mass transportation project known as the Aurora Avenue North Multi-Modal Corridor project (herein referred to as "the Aurora project") ; and

WHEREAS, the City was awarded Federal Transit Administration (herein referred to as "FTA") Section 5309 Bus grant for the Aurora project; and

WHEREAS, the City needs locally generated funds to use as match to other federal grants to the Aurora project; and

WHEREAS, King County Metro, a Division of the County's Department of Transportation, has locally generated revenues now allocated to projects eligible for funding with federal grants, and these locally generated revenues are not currently being used as match for federal grants; and

WHEREAS, providing local County funds to the City in exchange for the City's FTA grant funds currently programmed to the Aurora project will allow the City to proceed with implementation of the project;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

SECTION 1. EXCHANGE OF FUNDS

A. The City will provide the County with $1,475,518 in FTA Section 5309 Bus grants. These FTA funds shall be from grants that have been programmed by the City for the Aurora project.

B. In exchange for the FTA grant funds, the County will provide the City with unencumbered local County funds in an amount not to exceed $1,401,742.10 (herein referred to as "Local Funds"), and these Local Funds are to be used solely for the Aurora project, unless the Aurora project is terminated or removed from the City's list of Capital Improvement Projects approved by its Council (herein referred to as "CIP") and the City and County agree to another use that confers transit benefits to the citizens of the

County. This amount is equal to the total of the FTA funding, less five percent. The Local Funds will provide local match to other grant funding secured by the City.

SECTION 2. TIMING OF FUND EXCHANGE

A. The City and the County will jointly request that the Puget Sound Regional Council reprogram the $1,475,518 Section 5309 Bus grant currently programmed in the Regional Transportation Improvement Program (herein referred to as the "TIP") for the Aurora project to an eligible County capital project. This joint request will occur as soon as possible following the approval and signing of this agreement.

B. When the grant funds are reprogrammed for a County project in the TIP, the County will obligate the funds in an FTA grant agreement before the eligibility of the funds expires.. When the funds are obligated with the FTA, and FTA eligible costs have been identified for the grant funded County project, the County will draw the FTA funds from the federal treasury in accordance with FTA regulations and federal law.

C. No later than 60 days following the County's receipt of $1,475,518 in FTA grant funds from the federal treasury, the County will transmit $1,401,742.10 in Local Funds to the City. This amount represents $1,475,518 less $73,775.90, which constitutes a 5% administrative cost for this type of fund exchange.

SECTION 3. COUNTY RESPONSIBILITY FOR MEETING FEDERAL GRANT REQUIREMENTS

The County shall enter into a grant agreement with FTA in which it will assume all responsibility for meeting federal grant requirements for the federal funding reprogrammed for the County's use.

SECTION 4. CITY'S USE OF LOCAL FUNDS

A. The City hereby agrees it will use all Local Funds received in this exchange solely for the purpose of designing and building the improvements for the segment of Aurora project between N 165th Street and N 205th Street, unless the project is terminated or removed from the CIP and the City and County agree to another use that confers transit benefits to the citizens of the County. The City may not use the Local Funds it receives under this agreement for any other project without the written consent of the County.

B. If the Aurora project is permanently removed from the CIP prior to the full expenditure of the Local Funds provided to the City under this agreement, the City hereby agrees to contact the County and provide documentation of the amount of unexpended Local Funds. Upon removal of the project from the CIP, the City and County will attempt to agree upon a different City project for expenditure of the remainder of the funds. If no alternate use of the remaining funds can be agreed upon by the City and County following termination or removal of the Aurora project from the CIP, at the County's

discretion, the County may request in writing the return of any unexpended Local Funds. The City shall return such unexpended funds within sixty (60) days of receiving the County's request.

SECTION 5. LEGAL RELATIONS

A. This Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture, agent-principal relationship, or partnership is formed as a result of this Agreement. The employees of the City or individual providing paid or volunteer services to the City shall be considered the employees, volunteers, agents or representatives of the City and shall not be deemed, nor represent themselves, to be the employees, volunteers, agents or representatives of the County. The City and the County shall be solely and completely responsible for all acts and omissions of their employees, volunteers and all other such persons acting on the respective entities' behalf. The City acknowledges that the County and the County acknowledges that the City shall have no responsibility for overseeing or monitoring the performance of such persons.

B. This Agreement shall be interpreted in accordance with the laws of the State of Washington in effect on the date of execution of this Agreement. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement between the County and City.

C. To the maximum extent permitted by law, the City agrees to defend, indemnify and hold harmless the County and its officers, employees and agents from and against all liabilities, claims, actions, lawsuits, damages, losses, costs and expenses (including reasonable attorneys' fees and court expenses) for all injuries to or death of any person, repayment of grant funds, infringement of any patent or copyright, and/or damage to any property occurring, directly or indirectly, from the City's performance or failure to perform under this Agreement, whether or not resulting from the negligence of the City, except to the extent such injuries, infringements or damages result from the County's negligence or willful misconduct. If (and only if) the provisions of RCW 4.24.115 apply to the work and services under this Agreement and any such damages and injuries to persons or property are caused by or result from the concurrent negligence of the City and the County or their respective contractor(s), employees, agents, or representatives, the indemnification of each party applies only to the extent of the negligence of that party, its contractor or employees, agents, or representatives. The City's obligations under this Section shall include, but not be limited to, claims and actions against the County and its officers, employees and agents by a volunteer to or an employee or former employee of the City, and the City expressly waives, as respects the County only and only for the limited purpose stated herein, all immunity and limitation on liability under any industrial insurance act, including Title 51 RCW, other workers' compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claims and actions.

D. The provisions of this Section shall survive and remain applicable to each of the parties notwithstanding any termination or expiration of this Agreement.

SECTION 6. COMPLIANCE WITH LAWS

The City and the County shall comply with all applicable federal, state and local laws and regulations in performing under this Agreement.

SECTION 7. TERMINATION.

A. This Agreement shall take effect upon its signing by both parties. This Agreement shall terminate upon the County's receipt of a final report showing that the Local Funds have been completely and properly expended.

B. Either party may terminate this Agreement in the event the other fails to perform a material obligation under this Agreement, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other party. Notice of termination of this Agreement shall be given by the party terminating this Agreement to the other party not less than thirty days (30) days prior to the effective date of termination. Each party shall also be entitled to bring an action at law or in equity to abate, prevent or enjoin any such breach, to recover monetary damages caused by such breach or to compel specific performance by the other party of its obligations under this Agreement, it being recognized that the beneficiaries of the obligations hereunder cannot be adequately compensated by monetary damages in the event of a breach. No delay in enforcing the provisions hereof as to any breach shall impair, damage or waive the right of any party entitled to enforce the same or obtain relief against or recover for the continuation or repetition of such breach or any similar breach thereof at any later time or times.

. C. Neither payment by the County nor performance by the City shall be construed as a waiver of each party's rights or remedies against the other. Failure to require full and timely performance of any provision at any time shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter.

SECTION 8. REPORTING AND RECORD KEEPING

A. The City shall report in writing to the County annually, on the anniversary of receipt of the Local Funds, regarding the expenditure of the Local Funds and the amount and status of the unexpended Local Funds. The report shall be in sufficient detail to allow the County to ascertain that the Local Funds were expended consistent with the restrictions of this Agreement. This duty to report shall expire upon the County's receipt of a final report showing that the Local Funds have been completely and properly expended.

B. The City and the County agree to keep accurate records of activities and expenditures relating to the Aurora project and the County capital project that receive funds through

this Agreement. Either party shall have full access to and the right to examine all documents and accounting records of the other party relating to expenditure and use of the funds that are the subject of this agreement.

SECTION 9. SUCCESSION.

This Agreement, together with all exhibits now or hereafter made a part, shall be binding on the parties and their respective heirs, executors, administrators, successors and assigns.

SECTION 10. ASSIGNMENTS.

Neither this Agreement nor any interest herein may be assigned by the City without the prior written consent of the County.

SECTION 11. NOTICE REQUIREMENTS.

Any notice given under this Agreement shall be in writing and given by sending such notice by registered mail, return receipt requested, with postage prepaid, addressed as follows, or at such other address as the party to be notified shall have last directed in writing, or by serving said notice personally.

KING COUNTY: Transit General Manager
Department of Transportation – KS-TR-0415
King Street Center
201 S. Jackson Street
Seattle, WA 98104-38565

CITY: Public Works Director
City of Shoreline
17544 Midvale Ave. N.
Shoreline, WA 98133

The effective date of notice shall be the date of personal service or the date of receipt as shown on the return receipt, as applicable.

SECTION 12. AMENDMENT AND EXTENSION.

This Agreement and the exhibits now or hereafter a part of this Agreement shall not be deemed amended in any manner unless such amendment is in writing and signed by a duly authorized representative of each party.

SECTION 13. SEVERABILITY.

If any portion of this Agreement is ruled by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and delivered by its duly authorized officer or representative as of the date set forth below its signature.

Signature Date 8-30-06

Robert L. Olander
Shoreline City Manager

Signature Date 10/10/06

Harold Taniguchi,
Director
King County Department of Transportation

Approved as to Form:

Ian Sievers, City Attorney