



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager
From: David Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director
Date: March 8, 2012
Subject: I-405 BELLEVUE TO LYNNWOOD PROJECT – UTILITY AGREEMENT

RECOMMENDATION:

It is recommended that City Council authorize the City Manager to sign the attached Utility Construction Agreement (Agreement) with the Washington State Department of Transportation (WSDOT). It is further recommended that City Council authorize the use of water/sewer construction reserve funds to pay for protection-in-place measures for certain existing City water and sewer system lines.

BACKGROUND DISCUSSION:

The I-405 Bellevue-to-Lynnwood Project (aka, *I-405 - NE 6th to I-5 Widening and Express Toll Lanes Project* (the Project)), complements the previous WSDOT *Kirkland Nickel Project* by providing one additional northbound and southbound lane between NE 6th Street in Bellevue and Bothell, except the portion in Kirkland, between NE 85th and NE 124th Streets, which already received an extra lane during the *Kirkland Nickel Project*. With further direction expected during the State's 2012 Legislative session, the Project will also convert two I-405 lanes (one HOV and one general purpose) to express high occupancy toll (HOT) lanes together with a new single express toll lane converted from an existing high occupancy vehicle (HOV) lane from Bothell to Lynnwood.

Construction activities are expected to begin in 2012 with completion in 2015; specific Project elements within Kirkland include:

- The widening and adding of a freeway lane in both directions on I-405, north of NE 124th Street and south of NE 85th Street.
- The conversion of the existing northbound right-hand lane, south of NE 70th Street, from an exit-only lane to a through lane.
- The construction of new noise and retaining walls, where warranted in residential areas.



WSDOT Project limits

- A new concrete sidewalk on the north side of the NE 124th Street overpass (none currently exists, and staff is working with WSDOT to schedule these improvements early in the Project).
- The placement of tolling equipment at the NE 128th Street direct access ramps that will allow for electronic tolling of single-occupancy-vehicle (SOV) traffic entering the managed lane system.
- New electronic toll signage placed in Kirkland's right-of-way near 116th Way NE.

As stated within the Utility Construction Agreement (Attachment A), Kirkland, as a permittee with utilities crossing WSDOT property, is responsible for associated Project impact costs attributed to those utility crossings. The options for dealing with Kirkland's utilities in conflict with the Project include relocation or measures designed and taken for protection-in-place. Protection-in-place measures could include options such as encasement of the utility line within a thick-gauge steel pipe or, where the freeway project proposes a noise or retaining wall over the utility, design of the wall to span the utility and direct its loading outside the pipe zone so as not to bear on it.

All Cost overages for design and/or construction are the burden of the Utility (City); however, should the construction activity in any way cause a Kirkland public utility to burst or be damaged, the Agreement provides for all costs of repair to be borne by the state or its contractor.

The two Kirkland utility crossings (Attachment B) that are in conflict with the Project are:

- 20" diameter water line at NE 60th Street, and
- 8" diameter sanitary sewer line at NE 80th Street

Kirkland staff and WSDOT engineers have concluded that protection-in-place for the existing water and sewer lines is the most prudent and cost effective means for maintaining system integrity. The cost associated with protection-in-place has been estimated to be \$39,500 and staff has identified the water / sewer construction reserve as an available source for funds to reimburse WSDOT for the protection-in-place work (Attachment C).

Attachments (3)

UTB 1028
UTILITY CONSTRUCTION AGREEMENT
I-405/NE 6th St. to I-5 Widening and Express Toll Lanes Project
Work by State – Actual Cost

This Utility Construction Agreement (Agreement) is made and entered into between the State of Washington, Department of Transportation (State) and the City of Kirkland, that, among other things, provides utility services (referred to herein as (Utility), collectively referred to as the “Parties,” and individually referred to as the “Party.”

WHEREAS, the State is planning the construction or improvement of Interstate 405 (I-405), Control Section 174305, I-405/NE 6th St. to I-5 Widening and Express Toll Lanes Project (Project), and in connection therewith, it is necessary to protect, modify and/or relocate certain Utility-owned facilities (Utilities); said work hereinafter referred to as the “Utility Work”; and

WHEREAS, the Parties agree that the State’s inclusion of the Utility Work in the State’s design-build construction contract serves the best interest of the public and promotes efficiency and coordination for timely and cost effective completion of the Project; and

WHEREAS, the Utility agrees to reimburse the State for any Utility Work required for Utilities not located on easements or Utility-owned right-of-way (Category A Utilities), and the State agrees to pay for the protection, modification and/or relocation of Utilities where the Utility has a compensable property interest by virtue of being located on easements or Utility-owned property or right-of-way (Category B Utilities),

NOW, THEREFORE, pursuant to chapter 47.44 RCW, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, covenants, and performances contained herein, including all exhibits which are incorporated by reference and fully made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. Plans, Specifications, Construction, Inspection, Utility Work Acceptance, Ownership, and Maintenance.

1.1 This Agreement addresses Utility Work, relating to Category A Utilities and Category B Utilities, that is necessary to protect, modify and/or relocate Utilities for purposes of the Project.

1.2 The State, through its Design-Builder, agrees to perform the Utility Work, including both design and construction, in accordance with the Special Provisions, marked Exhibit A, including Attachments 1 and 2 to Exhibit A, and Plans, marked Exhibit C.

1.3 The State shall require its Design-Builder to develop the designs for the Utility Work in accordance with the Kirkland City Code and current City of Kirkland Engineering Standards as generally shown on Exhibit C, State utility permit and/or franchise requirements,

and the specifications included in the Project Request for Proposal (RFP) and amendments thereto. To the extent that the RFP specifications affect the Utility Work, such RFP specifications are included in this Agreement, along with Exhibit A by this reference. In accordance with Exhibit A, the Utility shall work directly with the Design-Builder during design and shall review and approve the design-build final plans and specifications proposed for the Utility Work. When approved by the Utility, all Utility Work plans and specifications shall be incorporated with this Agreement herein as if fully set forth. The State shall require its Design-Builder to construct the Utility Work in accordance with the Utility-approved plans and specifications.

1.4 The Utility shall inspect all Utility Work on the Utilities. The Utility agrees that any costs for Category A Utility Work inspection shall be borne solely by the Utility. The State shall reimburse the Utility for the costs associated with Utility inspections of the Category B Utility Work, as provided in Section 3.2. The time of Utility inspections shall be limited to between the hours of 8:00 AM and 5:00 PM, Monday through Friday, on regular business days of the Utility. Subject to the foregoing, the Utility agrees that any inspections on its part will not delay the Design-Builder construction schedule and, if delays to the construction schedule occur, the Utility will be responsible for any related costs due to Design-Builder delay claims. The Utility shall conduct any required inspection by the end of the next business day following receipt of the inspection request. If the Utility does so, it shall not constitute delay for the purpose of this Section.

1.5 The State shall promptly notify the Utility in writing when all Utility Work is completed.

1.6 The Utility shall, within ninety (90) calendar days of being notified that the Utility Work is completed: (a) deliver a letter of conditional acceptance to the State, such acceptance is termed conditional only upon the completion of the one year warranty term as provided in Section 1.8 or (b) deliver to the State written notification listing all reasons based solely upon the Utility-approved plans and specifications for withholding conditional acceptance.

1.7 If the Utility does not respond within ninety (90) calendar days, the Utility Work shall be deemed conditionally accepted by the Utility, such acceptance is termed conditional only upon the completion of the one year warranty term as provided in Section 1.8.

1.8 The State's Design-Build contract requires the Design-Build contractor to provide the State with a one-year warranty on all work per Section 1-05.16, General Warranties, of the General Provisions of the Project RFP, excluding Sections 1-05.16(9) and 1-05.16(10). Warranty Provisions, Section 1-05.16 is attached as Exhibit D. The one-year warranty begins on the date of Project Physical Completion, as defined in the Project RFP. The State will provide the Utility with written notification of the date of Project Physical Completion. During the year following Project Physical Completion, the State will require the State's Design-Builder to correct any defects in the Utility Work in accordance with the terms of the warranty. The Utility shall immediately notify the State in writing of any defects that require correction upon discovering such defects. The State agrees to promptly request the State's Design-Builder to correct the Utility Work defect, and the State will notify the Utility when such work is scheduled. Upon completion of the corrective work, the Utility will perform an inspection and deliver a letter of acceptance for the corrective work to the State.

1.9 After the one year warranty or any extensions for correction of Utility Work defect(s) pursuant to Section 1.8, the Utility shall deliver to the State written notification of final acceptance of the Utility Work, and the State shall be released from all future claims and demands resulting from the performance of the Utility Work.

1.10 Upon completion and final acceptance of the Utility Work pursuant to Section 1.9, the Utility shall be solely responsible for all future ownership, operation, and maintenance of its Utilities, without State liability or expense.

1.11 In regards to Utility Work acceptance as addressed in Section 1.8, the Utility neither waives nor accepts defects in design or construction. It is agreed that the State's liability to the Utility under such circumstances shall not exceed sums, if any, as may be recovered from the Design-Builder. For claims or demands due to defects in design or construction brought by the Utility, the Utility shall have full responsibility for preparation and presentation of such claims, if any, and shall bear all expenses thereof, including attorneys' fees and costs and any expenses of any nature, including attorneys' fees and costs which may be incurred by the State.

2. Cost Liability and Payment for Category A Utilities.

2.1 The Utility shall reimburse the State for all actual, direct and related indirect costs associated with Category A Utility Work. The estimated cost for Category A Utility Work to be performed by the State's Design-Builder is Thirty-nine Thousand, Five Hundred dollars (\$39,500.00) as detailed in Exhibit B, Cost Estimate. Exhibit B is based on conceptual designs to protect, modify or relocate Utility Category A Utilities, which have been identified as possibly in need of protection, modification, or relocation as a result of the Project. Exhibit B includes all anticipated costs for both the State and the Design-Builder with respect to Category A Utility Work.

2.2 The State shall invoice the Utility on a monthly basis for the costs related to the Category A Utility Work, which the City shall pay within thirty (30) calendar days of receipt of the invoice. Should the estimated costs as provided in Section 2.1 be in excess of the actual costs for the Category A Utility Work, the State shall (a) reflect the Utility's excess payment by reducing the final invoice charge to the Utility, and if necessary, (b) directly reimburse the Utility for such excess payment within thirty (30) calendar days of the last invoice date.

2.3 Exhibit B described in Section 2.1 may be adjusted by addition or subtraction of Category A Utility Work required by the Project as provided for in Exhibit A, Section 4.4, Scope of Work. In cases where previously unidentified Category A Utility Work is required and unit costs have not been established, the State and Utility shall in good faith mutually negotiate and agree upon costs for such additional work. All adjustments made under this Section will be made by invoice provided by the State to the Utility and paid in accordance with Section 2.5 of this Agreement.

2.4 In accordance with chapter 19.122 RCW, the State will require its Design-Builder to obtain from the Utility, and the Utility agrees to provide reasonably accurate information as to its locatable underground facilities by surface-marking the location of the facilities. If there are identified but unlocatable underground facilities, the Utility shall provide the best available

information as to their locations. The Utility shall be responsible for increased costs to the Design-Builder for Category A Utility Work which result from differing site conditions and other circumstances beyond the control of either the State or the Design-Builder. Increased costs incurred by the Design-Builder under this Section shall be made by invoice provided by the State to the Utility and paid in accordance with Section 2.5 of this Agreement.

2.5 The State shall invoice the Utility monthly with detailed supporting documentation. The Utility agrees to make payment to the State within thirty (30) calendar days of receipt of the State's invoice. No payments made by the Utility shall constitute agreement as to the appropriateness of any item, and the Parties agree that at the time of final invoice, all required adjustments will be made and reflected in a final payment or State remittance as provided in Section 2.2.

2.6 Should the Utility fail to provide the State with payment for any invoice within ninety (90) calendar days after receipt of said invoice, the State shall also charge and expend interest at 1% per month applied to any amount owed until all monies owed and interest charges are recovered.

3. Cost Liability and Payment for Category B Utilities.

3.1 If Category B Utility Work is encountered the State shall be responsible for all actual, direct, related, and indirect costs associated with Category B Utility Work, including design costs and construction costs. All costs for the Category B Utility Work, including, design and construction work shall be included in the State's design-build construction contract and paid by the State.

3.2 The State shall also be responsible for all Utility inspection costs associated with Category B Utility Work. The State shall pay such costs directly to the Utility through Utility permit fee process. The Utility shall invoice the State for inspection costs as permit fees associated with Category B Utility Work no more than once per month. The State shall make payment to the Utility within thirty (30) calendar days after receipt of a detailed Utility invoice. The Utility will issue the permit's once payment is received. The current estimated cost for Category B Utility permits is Zero Dollars (\$00.00) and is detailed in Exhibit B, as no Category B Utility work or permits are currently anticipated. The actual costs of Utility Permits for Category B Utilities depends on the location and type of Category B Utility Work found to be necessary; permit fees are generally listed and updated annually on the Utility's website. Exhibit B summarizes the anticipated costs of permits for both Category A Utilities and Category B Utilities. The Parties agree that the State's responsibility for Category B Utility inspection costs as permit fees may be greater than the estimated amount identified in Exhibit B if any Category B Utilities are encountered.

3.2.1 The actual amount paid for inspection costs as permit fees by the State shall depend on the final design and lineal footage of Category B Utilities, if any, require protection, modification, and/or relocation. The final amount will be determined by payment of the final inspection costs as permit fees invoice for Category B Utility Work on the Project.

4. Changes in Scope of Work.

4.1 If the State's Design-Builder determines that a required change in the Scope of Work as contained in Exhibit A or the Utility-approved plans and specifications is required, written approval must be secured from the Utility and the State prior to modifying the Utility Work. For Category A Utilities, a written request from the Design-Builder, passed through the State to the Utility, shall provide documentation for the change and shall include the description of work, justification for the change, and associated cost changes triggered by the requested change to the Utility Work. The Utility shall respond within twelve (12) calendar days to the State, approving, disapproving, or modifying the Design-Builder's change request. If the Utility does not approve the requested Utility Work change, the Parties agree to work together in good faith and with the Design-Builder to resolve all issues in a timely manner. The Utility shall be responsible for all costs, if any, associated with the Design-Builder's cost determination for Category A Utility Work changes if approved.

4.2 The Utility may request elective changes to Category A and/or Category B Utility Work as described in the Scope of Work as contained in Exhibit A or to the Utility-approved plans and specifications. The State shall request its Design-Builder to determine whether it can accommodate such elective changes under the Project permits, state and/or federal law, applicable rules and/or regulations, and/or state design policies and the elective changes do not unreasonably delay critically scheduled Project control activities or negatively affect the Project, and if so, what the costs would be, including all projected Project costs that would be triggered by the requested elective changes. The Utility shall respond in writing within twelve (12) calendar days accepting or rejecting the elective changes and associated costs. The Utility shall be responsible for all costs associated with the Design-Builder's review and cost projections of the Utility's requested elective changes. The State shall invoice the Utility and the Utility shall pay all costs incurred under this Section 4.2 in accordance with Section 2.

5. Dispute Resolution.

5.1 In the event that a dispute arises under this Agreement, the Parties shall work in good faith and collaboratively to resolve disputes promptly and at the lowest organizational level.

5.2 The Utility's Project Coordinator and the State's I-405 Project Engineer shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible. If the issue cannot be resolved at this level, the State's I-405 Engineering Manager and the Utility's Public Works Director shall jointly cooperate to informally resolve any disputes as quickly and efficiently as possible.

5.3 In the event a dispute cannot be resolved between the Parties, the dispute shall be resolved in the following manner: Each Party shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with the two Parties. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with this process shall be a prerequisite to the filing of any litigation concerning the dispute. The Parties shall equally share in the cost of the third dispute board member; however, each Party shall be responsible for its own costs and fees

6. Betterments.

6.1 For purposes of this Agreement, a Betterment is any upgrade to Utilities that are not attributable to the construction of the Project and is made solely for the benefit of and at the election of the Utility, including any increase in Utilities capacity, capability, level of service, efficiency, duration, or function of the relocated or replaced or new Utilities over that which was provided by the existing Utilities.

6.2 The Utility shall be responsible for the additional costs associated with design or construction of any Betterment(s). If the Utility requests or determines a Betterment is necessary in relation to the Utilities covered by this Agreement, said Betterment shall be requested as a Scope of Work change pursuant to Section 4.

6.3 If the Utilities are damaged by Project work and the the Utility requests a Betterment to the Utilities as covered by Section 6.2, the State agrees it is responsible for the cost to repair the damaged Utilities in kind. The Utility agrees to be responsible for any repair costs that constitute a Betterment pursuant to Section 6.2.

7. Compliance.

7.1 The Utility shall comply with all applicable requirements of the Washington State Utilities Accommodation Policy and any amendments thereto, which by this reference are hereby incorporated in and made a part of this Agreement.

7.2 The State shall comply with all applicable federal, state, and local regulations, including but not limited to all regulations governing public works projects.

8. Limited Right of Entry, and Utility Ownership, Operation and Maintenance.

8.1 The Utility hereby grants to the State, including the State's employees, Design-Builder and its employees, consultants and subcontractors, a limited right of entry upon all land in which the Utility has interest that is necessary for performing the Utility Work and any work associated with construction of the Project.

8.2 The limited right of entry as identified in Section 8.1 shall expire upon the completion of the Utility Work warranty term as provided in Section 1.9.

9. Permit, Franchise, or Amendments.

9.1 Following Utility acceptance of the Utility Work pursuant to Section 1.8, the State shall amend or issue to the Utility the necessary permits, franchises or franchise amendments for those Utilities located within State right-of-way. The Utility shall work with the Design-Builder using the process for submittal, review and approval of permits, franchises or franchise amendments found in Section 2.10.4.3 entitled "New Franchises and Permits" of the Project Request for Proposal; a copy of which is attached to Exhibit A as Attachment 2.

10. Termination.

10.1 Neither the State nor the Utility may terminate this Agreement without the concurrence of the other Party. Termination, if mutually agreed upon, shall be in writing and signed by both Parties. If the Agreement is terminated prior to the fulfillment of all of its terms, each Party agrees to perform its obligations under the Agreement up to the date of termination, and neither Party waives any of its rights or remedies under the Agreement for terms that survive the termination of this Agreement.

11. Indemnification.

11.1 To the maximum extent authorized by law, the Utility and State shall indemnify and hold harmless one another and their employees and/or officers from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the one Party arising out of, in connection with, or incident to the other Party's own negligent performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the Utility and (b) the State, their employees and/or officers, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Utility or State, their employees and/or officers; and provided further, that nothing herein shall require the Utility or State to hold harmless or defend the other or its employees and/or officers from any claims arising from that Party's sole negligence or that of its employees and/or officers. The terms of this section shall survive the termination of this Agreement.

12. Amendments.

12.1 This Agreement may be amended by the mutual consent of the Parties; provided no amendment(s) or modification(s) shall be binding unless put in writing and signed by persons authorized to bind each of the Parties.

13. Audit and Records.

13.1 After execution of this Agreement and for a period of not less than three (3) years from the date of final payment by the Utility for its share of the Utility Work, both Parties shall maintain the records and accounts pertaining to the Utility Work and shall make them available for inspection and audit by the other Party, State Auditor and/or Federal Government, and copies of all records, accounts, documents or other data pertaining to the Utility Work will be furnished upon request. If any litigation, claim or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim or audit finding has been resolved even though such litigation, claim or audit continues past the three-year (3) retention period.

13.2 Each Party shall have full access to and right to examine said records of the other Party during normal business hours and as often as it deems necessary, and each Party shall pay for all costs of copies requested from the other Party.

14. Headings.

Section titles or other headings contained in this Agreement are for convenience only and shall not be part of this Agreement, nor be considered in its interpretation.

15. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall constitute one and the same instrument.

16. No Third Party Beneficiaries.

This Agreement is entered into solely for the mutual benefit of the Parties. This Agreement is not entered into with the intent that it shall benefit any other person or entity and no other such person or entity shall be entitled to be treated as a third party beneficiary of this Agreement.

17. No Waiver.

Neither payment nor performance by a Party shall be construed as a waiver of the other Party's rights or remedies against the Party. 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.

18. Entire Agreement.

This Agreement, including all Exhibits, attachments, and documents referenced as incorporated here, including any amendments, shall constitute all terms, conditions, and provisions agreed upon by the Parties hereto. No modification or amendment of this Agreement shall be valid or effective unless evidenced in writing and signed by both Parties as required by Section 12.

19. Interpretation.

This Agreement is and shall be deemed jointly drafted and written by each of the Parties to it, and it shall not be construed or interpreted against any of the Parties originating or preparing it.

20. Severability.

If any provisions of this Agreement are held invalid by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated.

21. Material Representations.

All promises, representations, statements, or warranties in this Agreement shall be deemed material and shall be deemed to have been relied upon by the Parties and shall survive the execution of this Agreement.

22. Laws and Venue.

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 or any amendment. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in the superior court situated in King County, Washington. Further, the Parties agree that each shall be responsible for its own attorneys' fees and costs.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year last written below.

**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION**

CITY OF KIRKLAND

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

Date: 2-15-12

Date: _____

By: 
Ann E. Salay, Assistant Attorney General

By: _____
City Attorney

UTB 1028
UTILITY CONSTRUCTION AGREEMENT
I-405/NE 6th St. to I-5 Widening and Express Toll Lanes Project
Work by State

Exhibit A
Special Provisions

The Utility Work under this Agreement provides for the State, through its Design-Builder, to design and construct facilities necessary to protect, modify, or relocate Utility -owned Category A and Category B Utilities that are in conflict with the Project. The existence of an actual conflict shall depend on the final design provided by the State's Design-Builder.

The State shall produce preliminary plans, specifications and cost estimates for the design-build Project. The State shall require its Design-Builder to finalize the Project design and the Utility Work protection, modification or relocation designs required to construct the Project. The State shall require its Design-Builder to design the Utility Work to meet or exceed the Utility's design and construction requirements, as well as the State's requirements for the construction of I-405, as further provided in Agreement Section 1.3.

1. Scope of Work

1.1 The State, through its Design-Builder, shall design and construct Utility Work necessary to protect, modify or relocate Utility -owned Category A and Category B Utilities that are in conflict with the Project.

2. Specifications

2.1 The State shall require its Design-Builder to protect, modify, or relocate the Utilities to be designed and constructed as further provided in Agreement Section 1.3.

3. Work By Utility

3.1 The Utility shall review Utility Work specification and plan submittals made by the Design-Builder and return said submittals to the Design-Builder within thirty (30) calendar days after receipt of each submittal. The Utility agrees to indicate on each submittal: (a) "approved," (b) "approved with comments," or (c) "not approved, Design-Builder to revise and resubmit."

The Utility shall review any re-submittals resulting from a prior review and return said submittals to the Design-Builder within fifteen (15) calendar days after receipt of each revision.

3.2 The Utility shall inspect the Utility Work. The Utility shall coordinate a mutually agreeable schedule and scope of inspection directly with the Design-Builder for Utility inspections. The Utility shall report any Utility Work deficiencies in writing to the State and the Design-Builder's Construction Quality Assurance Manager for resolution.

4. Work by State

4.1 The State shall require its Design-Builder to prepare plans and specifications, as well as construct any protections, modifications or relocations of Utilities in conflict with the Project as provided in the Agreement.

4.2 The State shall require its Design-Builder to perform all inspection, sampling and testing of the Utility Work in accordance with the Design-Builder's approved Quality Management Plan developed by the Design-Builder and approved by the State.

4.3 The State shall attend meetings between the Design-Builder and the Utility.

4.4 Since the Project is being designed and constructed using a design-build project delivery method, the exact identity and number of Category A Utilities that may require protection, modification, or relocation in order to accommodate the Project is unknown until such time as the design is developed by the Design-Builder. Nevertheless, based on conceptual plans, the Parties have identified the following Category A Utilities as possibly being in conflict with the Project. The Utility Work related to this Category A Utilities will be included in the RFP for the Project.

Utility Conflict		Existing Utility	Proposed Utility
ID	Location		
308	MP 16.43 Right	Water Main	Protect in Place
308	MP 16.43 Left	Water Main	Protect in Place
332B	MP 17.82 Right	San. Sewer	Protect in Place

4.5 The Utility is responsible to pay for all work associated with the above referenced Category A Utility at the price contained in Exhibit B, as may be adjusted from time to time pursuant to the design-build contract and Agreement Section 2. If as a result of the final design for the Project the Utility Work identified above is either not required to be performed or reduced in scope, the Parties will amend this Scope of Work and Agreement Section 2. It is

acknowledged by the Parties that there may be additional Category A Utilities to the Utilities identified above that may require protection, modification or relocation in order to accommodate the Project. As the Project progresses, should other Category A Utilities be identified that require protection, modification or relocation, the Parties agree that the resulting Utility Work will be addressed pursuant to the terms of the Agreement and shall not be considered a change to this Scope of Work. In such an event, should the Design-Builder have a right to an increase in contract price pursuant to the design-build contract, the Utility shall cooperate with the Design-Builder in developing a price to perform such Utility Work. The Utility shall be responsible to reimburse the State for all such increases in accordance with Agreement Section 2.

4.6 The exact identity and number of Category B Utilities that may require protection, modification, or relocation in order to accommodate the Project is unknown until such time as the design is developed by the Design-Builder. Nevertheless, based on conceptual plans, the Parties have not identified any Category B Utilities in the vicinity of the Project which may be in conflict with the Project.

4.7 It is acknowledged by the Parties that there may be additional Category B Utilities to those Category B Utilities identified above that may require protection, modification or relocation in order to accommodate the Project. As the Project progresses, should additional Category B Utilities be identified that require protection, modification, or relocation, the Parties agree that the resulting Utility Work shall be addressed pursuant to the terms of this Agreement and shall not be considered a change to the Scope of Work.

4.8 Franchises and Permits: The Utility's current Franchise No. 10109, dated November 13, 1990, which expires November 13, 2015 is Attachment 2 to Exhibit A.

1 **2.10 UTILITIES AND RELOCATION AGREEMENTS**

2 **2.10.1 GENERAL**

3 **2.10.1.1 SCOPE**

4 WSDOT has identified the following:

- 5 • One Utility Relocation required to accommodate the Project.
- 6 • Twelve Utilities with conflict points which the Design-Builder may be able to
7 eliminate by designing and building around the conflict points.
- 8 • Four Utilities which the Design-Builder shall leave in place by protecting the
9 Utility. The protection in place cost shall be borne by the Utility Owner, whether
10 the Work is performed by the Design-Builder or by the Utility Owner.
- 11 • There are four access manholes located within the bridge deck of the NE 124th
12 Street undercrossing that can be abandoned.

13 Each Utility is addressed in more detail elsewhere in this Section. Unless expressly stated
14 otherwise, the specific descriptions of Relocation Work in this Section 2.10.1.1 do not limit
15 or replace the general requirements of this Section.

16 Additional Relocation Work may be necessary to construct the Project. The Design-
17 Builder shall be responsible for determining what, if any, additional Utility Relocations
18 will be required; and shall work with Utility Owners to design and construct such
19 relocations in compliance with the Contract.

20 Incidental Utility Work and any additional Relocation Work that becomes necessary due to
21 the Design-Builder's correction of any inaccuracies in the Utility Information, changes
22 made by the Design-Builder to the Conceptual Plans, or otherwise, shall be addressed in
23 accordance with this Section and Section 1-07.17 of the General Provisions.

24 **Utility Relocations to be Performed During the Design-Builder's Work Schedule**

25 The following Utility will be relocated during the Design-Builder's Work schedule:

- 26 1) Sonoma Villero Condominiums (SVC) stormwater connections (UI 465A and
27 UI 465B): The Project proposes a large combined retaining and noise wall to the
28 west of the SVC. This wall will block the normal water sheet flow into the existing
29 storm drainage system. To maintain the proper water flow, the Design-Builder
30 shall modify and reconnect the SVC sheet flow and point of flow water effluents
31 around the new wall into the modified WSDOT stormwater drainage conveyance
32 system. This Utility is classified as a Category 2 Utility.

33 **Utilities with Potential Conflicts**

34 The following 12 Utilities have been identified as potential conflicts to proposed Project
35 facilities. Depending on the design, these Utilities may be designed around, either
36 permanently or temporarily Protected in Place, or relocated during construction. The
37 Design-Builder and the Utility Owner shall consider all options in the design process.
38 Either option shall be performed at the Utility Owner's cost.

- 39 1) Puget Sound Energy (PSE) underground power cable crossing I-405, Milepost
40 (MP) 16.84 at NE 60th Street (UI 309). This Utility is classified as a Category 1
41 Utility.

- 1 2) PSE underground power cable crossing I-405, MP 16.84 at NE 60th Street
2 (UI 310). This Utility is classified as a Category 1 Utility.
- 3 3) PSE 4-inch diameter gas line crossing I-405, MP 16.34 at NE 60th Street (UI 633).
4 This Utility is classified as a Category 1 Utility.
- 5 4) City of Kirkland (COK) encased 8-inch sanitary sewer line at MP 17.35 (UI 321B).
6 This Utility is classified as a Public Utility.
- 7 5) Vicinity of NE 80th Street, I-405 MP 17.84. The following Utilities are:
 - 8 a) COK 12-inch sanitary sewer (UI 332B) classified as a Public Utility;
 - 9 b) Comcast overhead cable (UI 338) classified as a Category 1 Utility;
 - 10 c) Verizon Business/MCI overhead fiber (UI 339) classified as a Category 1
11 Utility;
 - 12 d) PSE overhead fiber optic (UI 340) classified as a Category 1 Utility;
 - 13 e) Frontier buried telephone line (UI 341) classified as a Category 1 Utility; and
 - 14 f) PSE overhead power line (UI 342).
- 15 6) Stormwater drainage pipe into the WSDOT drainage system at the CamWest
16 Development, north of NE 108th Street (UI 371), now operated by the COK. This
17 Utility is classified as a Public Utility.
- 18 7) Integra/Electric Lightwave Fiber Optic Cable (UI 417). Integra/Electric Lightwave
19 owns a buried fiber optic cable line along the west side of the southbound I-405 on-
20 ramp from NE 124th Street. This is classified as a Category 1 Utility.
- 21 8) PSE gas pipeline crossing I-405 at MP 21.91 (UI 643). This Utility is classified as
22 a Category 1 Utility.
- 23 9) The following Utilities are located along Woodinville Drive (Brickyard) under I-
24 405 at MP 23.45:
 - 25 a) PSE power line (UI 468) classified as a Category 1 Utility;
 - 26 b) City of Bothell 8 inch concrete sanitary sewer line (UI 469) classified as a
27 Public Utility;
 - 28 c) Frontier Communications' six 3.5-inch conduits encased in concrete (UI 470)
29 classified as a Category 1 Utility;
 - 30 d) PSE underground power line (UI 472) classified as a Category 1 Utility;
 - 31 e) PSE 4-inch gas main (UI 473) classified as a Category 1 Utility; and
 - 32 f) Comcast buried cable (UI 480) classified as a Category 1 Utility.
- 33 10) PSE underground power cable crossing I-405 at MP 24.8 (UI 634). This is
34 classified as a Category 1 Utility.

35 **Utilities for Protection In Place**

36 The following are seven vital Utilities that shall not be relocated or taken out of service.
37 The Design-Builder shall design around these Utilities and provide either permanent
38 Protection in Place or temporary Protection in Place:

- 39 1) and 2) Seattle Public Utilities (SPU) Tolt: One 60-inch concrete cylinder water
40 transmission main (UI 449) and two 60-inch SPU Tolt steel water transmission

1 mains (UI 450). SPU owns two 60-inch water transmission mains in the Tolt River
2 Pipeline Corridor crossing I-405 at MP 22.50. The Design-Builder shall contour-
3 grade the west side of I-405 so that the water main lines will not be subjected to
4 additional loads in excess of existing soil loads over the pipes.

5 The Design-Builder shall work with SPU during the design and construction to
6 assess dead and/or live loads that will/may occur over or within 25 feet of these
7 water lines. The Design-Builder shall verify all applicable loading requirements
8 relating to the water main lines with SPU.

9 No Work of any kind shall take place within 25 feet of the water main lines without
10 prior approval of all applicable plans and specifications by SPU. The Design-
11 Builder shall notify SPU a minimum of 11 Calendar Days prior to commencing
12 construction within 25 feet of the water main lines.

13 The Design-Builder shall allow SPU access to the Project site to verify that all
14 Work within 25 feet of the water main lines is performed in accordance with the
15 SPU approved plans and specifications. If SPU determines that the Work is not
16 being performed in compliance with the SPU approved plans and specifications,
17 SPU will notify WSDOT. WSDOT reserves the right to stop the Work, pending
18 compliance with the SPU approved plans and specifications.

19 The Design-Builder shall transmit the design submittals to SPU and to WSDOT for
20 review and approval prior to commencing Work within 25 feet of the water main
21 lines. For informational purposes only, SPU is expected to take up to 10 business
22 days from receipt of each submittal to respond. The review time for submittals
23 begins when SPU receives the submittal, and the review time ends when the
24 Design-Builder receives a response. If SPU rejects a submittal, the Design-Builder
25 shall revise and re-submit it. If SPU fails to complete a review within the 10
26 business day review period, the Design-Builder shall not be eligible for an increase
27 in the Contract Price or the Contract Time.

28 The Design-Builder shall submit an existing condition survey and narrative
29 explaining the existing condition of the soils in the vicinity of the existing water
30 lines. The Design-Builder shall pothole and locate the water mains.

31 The Design-Builder shall submit a Water Main Lines Protection Plan stamped by a
32 Professional Engineer licensed under Title 18 RCW. The Plan shall include means
33 and methods, equipment, materials, schematics, shoring and cribbing, construction
34 sequence, temporary and permanent loading calculations, vibration and settlement
35 monitoring and protection, and a Leak Response Plan.

36 Any I-405 improvements shall not impose any additional permanent load on SPU's
37 pipelines. This may require protective slabs, casings, knockouts in wall
38 foundations, and piles, to assume no pipeline loading. There shall be a minimum
39 5-foot clear space all the way around both pipelines where no footings, piles, or any
40 other type of improvements can be constructed, unless the pipeline is encased for
41 10 feet on either side of the improvement in advance.

42 To facilitate future maintenance or repairs to the pipelines, any combination
43 retaining/sound wall shall have permanently removable panels above each pipeline,
44 with a minimum width of 10 feet, which can be removed without disturbing the rest
45 of the retaining or sound wall.

1 Any improvements constructed over the pipelines must be approved by both SPU
2 and WSDOT. If the Design-Builder elects not to contour grade the area over the
3 SPU water main lines, a Construction Agreement between WSDOT and SPU will
4 be required. It is anticipated that it will take no less than 90 days to complete such
5 an agreement between the two parties. The Design-Builder will not be allowed a
6 time extension for the time to develop and execute said agreement.

7 These Utilities are classified as Public Utilities.

8 3) and 4) COK 24-inch water main line (UI 308) and 8-inch water main line (UI 313):
9 COK owns a 24-inch water main line that crosses I-405, and an 8-inch water main
10 line along the west side of I-405 at approximate MP 16.84. The Design-Builder
11 shall design the noise walls so that the two water main lines will not be subjected to
12 live and dead load forces that exceed COK standards. The Design-Builder shall
13 work with COK during design and construction to assess dead and/or live loads
14 that will/may occur over or within 25 feet of the water main lines. The Design-
15 Builder shall verify with COK all applicable loading requirements relating to the
16 water main lines. The Design-Builder shall coordinate with COK to provide and
17 design permanent Protection in Place for these water main lines.

18 No Work shall take place within 25 feet of the water main lines without prior
19 approval of all applicable plans and specifications by COK. The Design-Builder
20 shall notify COK a minimum of 11 Calendar Days prior to commencing
21 construction within 25 feet of the water main lines.

22 The Design-Builder shall allow COK access to the Project site to verify that all
23 Work within 25 feet of the water main lines is performed in accordance with the
24 COK approved plans and specifications. If COK determines that the Work is not
25 being performed in compliance with the COK approved plans and specifications,
26 COK will notify WSDOT. WSDOT reserves the right to stop the Work, pending
27 compliance with the COK approved plans and specifications.

28 The Design-Builder shall transmit the design submittals to COK and to WSDOT
29 for review and approval prior to commencing Work within 25 feet of the water
30 main lines. For informational purposes only, COK is expected to take up to 30
31 Calendar Days from receipt of each submittal to respond. The review time for
32 submittals begins when COK receives the submittal, and the review time ends
33 when the Design-Builder receives a response. If COK rejects a submittal, the
34 Design-Builder shall revise and resubmit it. If COK fails to complete a review
35 within the 30 Calendar Day review period, the Design-Builder shall not be eligible
36 for an increase in the Contract Price or the Contract Time.

37 5) Northshore Utility District (NUD) has a 12 inch AC sanitary sewer main within a
38 24 inch steel casing crossing at MP 21.91 (UI 444). This sewer line runs from east
39 and west and may be in conflict with the proposed noise wall. The Design-Builder
40 shall design the noise walls so that the sewer will not be subjected to live and dead
41 load forces that exceed NUD standards. The Design-Builder shall work with NUD
42 during design and construction to assess dead and/or live loads that will or may
43 occur over or within 25 feet of the sewer line. The Design-Builder shall verify with
44 NUD all applicable loading requirements relating to the sewer line. The Design-
45 Builder shall coordinate with NUD to provide and design permanent Protection in
46 Place for this sewer line.

1 6) City of Bothell has a 8 inch water main (UI 466) located along Woodinville Drive
2 running east and west under I-405 at approximate MP 23.45. This water line may
3 be in conflict with the proposed sediment trap vault outfall pipe. The Design-
4 Builder shall design the outfall so that the water line will not be subjected to pipe
5 deflections exceeding City of Bothell standards, and any live and dead load forces
6 that exceed City of Bothell standards. The Design-Builder shall work with City of
7 Bothell during design and construction to assess potential deflection of the pipe and
8 dead and/or live loads that will or may occur over or within 25 feet of the water
9 line. The Design-Builder shall verify with City of Bothell all applicable loading
10 requirements relating to the water line. The Design-Builder shall coordinate with
11 City of Bothell to provide and design permanent Protection in Place for this water
12 line.

13 7) City of Bothell has a 8 inch diameter sanitary sewer line crossing I-405 at
14 approximate MP 24.53 that may be in conflict with the proposed noise wall on the
15 west side of the highway. The Design-Builder shall design the noise wall so that
16 the sewer will not be subjected to live and dead load forces that exceed City of
17 Bothell standards. The Design-Builder shall work with City of Bothell during
18 design and construction to assess dead and/or live loads that will or may occur over
19 or within 25 feet of the sewer line. The Design-Builder shall verify with City of
20 Bothell all applicable loading requirements relating to the sewer line. The Design-
21 Builder shall coordinate with City of Bothell to provide and design permanent
22 Protection in Place for this sewer line.

23 These Utilities are classified as Public Utilities.

24 **2.10.1.2 UTILITY CATEGORY**

25 All Utilities are classified as Category 1, except as noted. The following are considered
26 Public Utilities:

- 27 • City of Seattle – Seattle City Light and Seattle Public Utilities;
- 28 • City of Bellevue;
- 29 • City of Kirkland;
- 30 • City of Bothell;
- 31 • King County Wastewater;
- 32 • Alderwood Water and Wastewater;
- 33 • Northshore Utility District; and
- 34 • Snohomish County Public Utility District.

35 **2.10.2 MANDATORY STANDARDS**

36 **2.10.2.1 GENERAL**

37 All Utility Work (whether performed by the Design-Builder or by the Utility Owner) shall
38 comply with the Mandatory Standards, all applicable Governmental Rules, any applicable
39 permits or franchises, the Utility Standards required by the applicable Utility, and any
40 applicable Utility Standards provided in the RFP Appendices. The Design-Builder is
41 responsible for obtaining Utility Standards from the Utility Owners, and for obtaining all
42 other Mandatory Standards relating to the Utility Work.

1 The following is a list of publications that shall be used for all design and construction.
2 They are listed in hierarchical order, with the most important appearing at the top of the
3 list. If there is a conflict between or among any of the Mandatory Standards applicable to
4 Relocation, the most stringent standard shall prevail. This is not a comprehensive list;
5 other applicable publications may be required to complete the design and construction. If
6 the Design-Builder becomes aware of any ambiguities or conflicts relating in any way to
7 the Mandatory Standards, the Design-Builder shall notify WSDOT immediately before
8 proceeding with design and construction, so that WSDOT may resolve them.

- 9 • Utility Standards (applicable to the particular Utility Owner).
- 10 • Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety
11 Standards - 49 CFR 192.
- 12 • Special Provisions (Appendix B2).
- 13 • Amendments to the Standard Specifications (Appendix B1).
- 14 • Standard Specifications (M41-10) (Appendix D18).
- 15 • WSDOT *Utilities Manual* (M22-87) (Appendix D21).
- 16 • WSDOT *Utilities Accommodation Policy* (M22-86) (Appendix D20).
- 17 • WSDOT *Local Agency Guidelines* (M36-63) (LAG) (Appendix D8).
- 18 • Standard Plans (M21-01) (Appendix D17).
- 19 • Design-Builder's Proposal.

20 **2.10.3 PERFORMANCE REQUIREMENTS**

21 **2.10.3.1 REIMBURSEMENT OF AND COLLECTION FROM UTILITY OWNERS**

22 **2.10.3.1.1 Reimbursement of Utility Owners - General**

23 The Design-Builder shall promptly deliver to WSDOT copies of all invoices received from
24 Utility Owners. If the Design-Builder fails to make any payment to a Utility Owner as
25 specified in Section 1-07.17 of the General Provisions or elsewhere in the Contract on or
26 before the deadline stated in the applicable Relocation Agreement (or if no deadline is
27 stated, within 30 Calendar Days after receipt of the Utility Owner's invoice), then WSDOT
28 will have the right to pay the Utility Owner the amount due (including any interest and/or
29 penalties). If WSDOT pays a Utility Owner, the Design-Builder shall reimburse WSDOT
30 for such payment within 14 Calendar Days after receipt of WSDOT's invoice; or WSDOT,
31 at its discretion, may deduct the amount of reimbursement due from the payment (or
32 payments, if necessary) next due to the Design-Builder under the Contract.

33 **2.10.3.1.2 Collection from Utility Owners - General**

34 The Design-Builder shall promptly deliver to WSDOT copies of all invoices sent to Utility
35 Owners. If the Utility Owner fails to make any payment to the Design-Builder for
36 Relocation Costs consistent with the applicable franchise, permit, and Governmental Rules,
37 the Design-Builder shall notify WSDOT.

38 The Relocation Agreements shall be consistent with the applicable franchise permit and
39 Governmental Rules. These agreements shall address any Utility Relocation costs.

1 **2.10.3.2 MAINTENANCE AND CARE DURING CONSTRUCTION**

2 The Design-Builder shall carry out all Work affecting Utilities carefully and skillfully, and
3 shall support, secure, and exercise care with respect to Utilities to avoid damaging them.

4 The Design-Builder shall ensure continuity of all existing Utility services to all users,
5 except when a Utility Owner determines that temporary interruption is necessary and
6 acceptable.

7 The Design-Builder shall not move or remove any Utility without the written consent of
8 the Utility Owner, unless otherwise directed by WSDOT.

9 The Design-Builder shall comply with all Applicable Laws relating to grading or
10 excavation in the area of underground Utilities. Before starting construction that may
11 affect any Utility in a particular area (whether underground or overhead), the Design-
12 Builder shall notify the affected Utility Owners in writing at least 30 Calendar Days prior
13 to commencement of the Work. The Design-Builder shall contact the One-Call Locate
14 Center (1-800-424-5555) prior to performing any excavation. The Design-Builder shall
15 maintain all appropriate clearances from active power lines in accordance with WAC 296-
16 155-428.

17 If any Utilities are damaged by the Design-Builder's activities, the Design-Builder shall
18 immediately notify the affected Utility Owner, the One-Call Locate Center, and WSDOT.
19 The Design-Builder shall pay for all costs associated with damage caused by the Design-
20 Builder, including Utility down-time; all reconstruction; all remediation of hazards;
21 litigation; loss of product; and Utility start-up and delay costs. At the Utility Owner's
22 request, the Design-Builder shall repair the damage, or the Utility Owner may choose to
23 repair the damage at the Design-Builder's expense. All repairs by the Design-Builder shall
24 be performed to the reasonable satisfaction of the Utility Owner. The Design-Builder shall
25 pay any reimbursement due to the Utility Owner because of any damage caused by the
26 Design-Builder within 30 Calendar Days after receipt of the Utility Owner's invoice,
27 unless otherwise provided in an applicable Relocation Agreement.

28 **2.10.3.3 GOVERNMENT APPROVALS AND OTHER PERMITS**

29 The Design-Builder shall obtain or ensure that the Utility Owner obtains all Governmental
30 Approvals and any other clearances, permits, approvals, and agreements necessary for a
31 Relocation; and shall verify that the same have been obtained prior to commencing or
32 permitting the commencement of any construction. The Design-Builder shall verify that
33 the Work performed (whether by the Design-Builder or by or on behalf of the Utility
34 Owner) complies with the requirements of such Governmental Approvals and other
35 clearances, permits, approvals, and agreements.

36 **2.10.3.4 ACCESS TO EXISTING UTILITIES**

37 Any authorized agent of WSDOT, a Utility Owner, or a Utility Owner's representative may
38 enter the Right-of-Way to inspect, repair, maintain, rearrange, alter, or connect Utility
39 facilities and equipment. The Design-Builder shall cooperate with such efforts and shall
40 avoid creating delays or hindrances to the performance of such Work. If the Design-
41 Builder determines, or a Utility Owner requests, that a Utility Owner must be on site to
42 protect its facility, the Design-Builder shall provide at least seven Calendar Days advance
43 notice to the Utility Owner.

44

1 **2.10.3.5 BMPs AND TEMPORARY EROSION AND SEDIMENTATION CONTROL**

2 Regardless of who performs or pays for any Relocation Work, the Design-Builder shall
3 ensure that appropriate best management practices and temporary erosion and
4 sedimentation control measures are followed in the performance of Utility Work. Refer to
5 Section 2.8 for best management practices and temporary erosion and sedimentation
6 control requirements.

7 **2.10.4 RELOCATION AGREEMENTS, FRANCHISES, AND PERMITS**

8 **2.10.4.1 RELOCATION AGREEMENTS**

9 **2.10.4.1.1 Requirements**

10 Each Relocation (other than Relocations subject to a Prior Relocation Agreement or an
11 Intergovernmental Agreement, and any Protections in Place) shall be addressed in a
12 Relocation Agreement entered into between the Design-Builder and the Utility Owner as
13 required by Section 1-07.17 of the General Provisions. The Design-Builder shall prepare
14 and negotiate each Relocation Agreement including such exhibits as may be appropriate,
15 and shall prepare and provide all Project information (e.g., reports, plans and surveys)
16 necessary to negotiate the Relocation Agreement. For each Relocation, the Design-Builder
17 shall initiate contact with the Utility Owner at the earliest possible time in order to begin
18 working with the Utility Owner to develop a Relocation Agreement and a Relocation Plan
19 that meet the Project design and schedule.

20 The Design-Builder shall refer to Chapter 2 of the WSDOT *Utilities Manual*
21 (Appendix D21) for guidance in preparing Relocation Agreements. At a minimum, each
22 Relocation Agreement shall set forth the specific details of the Work, which typically
23 include the following:

- 24 • The nature and location of relocated facilities;
- 25 • Allocation of responsibility for design, construction, and other relocation tasks;
- 26 • Applicable standards;
- 27 • Cost responsibility, cost estimates, and eligibility of costs for reimbursement, if
28 applicable;
- 29 • Reimbursement procedures, where appropriate;
- 30 • Schedules;
- 31 • Joint use issue resolution; and
- 32 • Procedures for design review and approval including inspection of construction,
33 acceptance of the Relocation Work, and such other provisions as may be
34 appropriate or reasonably required by WSDOT.

35 Cost Responsibility for each Relocation shall be determined in accordance with Section 1-
36 07.17 of the General Provisions, unless otherwise directed by WSDOT. Each Relocation
37 Agreement shall designate WSDOT as a third-party beneficiary. Schedules for completion
38 of the tasks specified in each Relocation Agreement shall conform to the Contract
39 Schedule, which shall provide reasonable and adequate time for each task.

40 The Design-Builder shall provide WSDOT with the opportunity to participate in
41 negotiations of Relocation Agreements in accordance with Section 1-07.17 of the General

1 Provisions. Accordingly, the Design-Builder shall give WSDOT at least seven Calendar
2 Days advance notice of negotiation sessions. The Design-Builder shall submit draft
3 minutes of each negotiation session to WSDOT within seven Calendar Days after the
4 session, and final minutes incorporating any WSDOT comments within seven Calendar
5 Days after WSDOT provides its concurrence.

6 No material modifications to the Relocation Work or terms of a fully-executed Relocation
7 Agreement shall be made without processing a revision to the Relocation Agreement using
8 the procedures described above.

9 **2.10.4.1.2 Process for WSDOT Review**

10 **2.10.4.1.2.1 Draft Relocation Agreement**

11 The Design-Builder shall submit a draft of each Relocation Agreement and exhibits to
12 WSDOT for Review and Comment. The submittal shall also include the most current copy
13 of the sections of the Design Documents that identify the Utility facilities being affected by
14 the Project. WSDOT will review and deliver its comments within 14 Calendar Days from
15 receipt of the draft document. WSDOT's failure to respond within this time frame does
16 not constitute an approval of the terms or form of the submittal. The Design-Builder shall
17 incorporate all WSDOT comments into the Draft Relocation Agreement, and obtain
18 WSDOT approval prior to submitting it to the Utility Owner. The Design-Builder shall
19 deliver each Draft Relocation Agreement concurrently to WSDOT and the Utility.

20 **2.10.4.1.2.2 Final Relocation Agreement**

21 The Final Relocation Agreement shall be submitted to WSDOT for review at least 20
22 Calendar Days prior to the date scheduled for its full execution. A Relocation Agreement
23 shall be considered final and ready for execution when all of its provisions have been
24 reviewed and approved by WSDOT through the review process described above.

25 **2.10.4.2 NEW FRANCHISES AND PERMITS**

26 A permit or franchise is required for any Utility Work within Right-of-Way in which the
27 Utility Owner has not established a property right. The Utility Owner shall prepare an
28 application for a new franchise or permit simultaneously with preparation of the Relocation
29 Agreement or design of modifications necessary for Protection in Place. The Design-
30 Builder shall ensure that the Utility Owner submits an application for a new franchise or
31 permit to WSDOT as far in advance of construction as possible, but in any event not later
32 than 30 Calendar Days prior to construction. The application and Relocation Agreement
33 shall be revised as necessary to obtain a franchise or permit from WSDOT.

34 The Design-Builder shall ensure that a new franchise or permit has been issued by
35 WSDOT prior to beginning construction of any Relocation or Protection in Place. A new
36 franchise or permit is not required for the abandonment or removal of an existing Utility
37 from within the Right-of-Way. The Design-Builder shall notify WSDOT of any
38 abandoned Utility, noting the permit number and how it was abandoned. A list of existing
39 Franchise/Permit Utilities is provided in the Utility Information (Appendix U2).

40 **2.10.4.3 ASSIGNMENT/DELEGATION OF UTILITY PERMIT/FRANCHISE RIGHTS AND**
41 **OBLIGATIONS**

42 For each Franchise/Permit Utility determined by the Design-Builder as requiring
43 Relocation, the Design-Builder shall prepare an "Assignment/Delegation of Utility

1 Permit/Franchise Rights and Obligations” document in a form substantially similar to
2 Appendix U1. The Design-Builder shall submit the completed document to WSDOT for
3 approval and execution. The Design-Builder may begin working with a Utility Owner
4 prior to execution of the document by WSDOT, provided that the document shall be
5 submitted to WSDOT no later than the Design-Builder’s submittal of the first draft of a
6 Relocation Agreement.

7 If the Design-Builder determines that it will be unable to successfully negotiate a
8 reasonable Relocation Agreement with the Utility Owner for a particular Franchise/Permit
9 Utility, the Design-Builder shall notify the Utility Owner and WSDOT of such
10 determination. The Design-Builder may, in addition to requesting assistance from
11 WSDOT in accordance with Section 1-07.17 of the General Provisions, exercise the rights
12 that have been assigned to it pursuant to the applicable assignment/delegation document,
13 provided, however, that WSDOT makes no representation or warranty as to the Design-
14 Builder’s ability under the assignment/delegation document to enforce those rights in a
15 manner that satisfies the Design-Builder’s Project requirements, or at all.

16 **2.10.5 IDENTIFICATION OF UTILITIES**

17 **2.10.5.1 INFORMATION SUPPLIED BY WSDOT**

18 As specified in Section 1-07.17 of the General Provisions, WSDOT has performed certain
19 investigations of existing Utilities located within the Right-of-Way. These investigations
20 were preliminary, and their results may be inaccurate and/or incomplete. The Utility
21 Information is provided in Appendices U1 through U9. The Design-Builder is advised of
22 the following:

- 23 • WSDOT’s investigations may have included making requests for “as-builts” from
24 Utility Owners listed in the WSDOT database as having Franchise/Permit Utilities
25 located within the Right-of-Way; visually locating above-ground Utility objects,
26 including, but not limited to, poles, cabinets, vents, visible manholes, valve boxes,
27 and vault covers; and surveying above ground objects.
- 28 • WSDOT has not identified Service Lines for the Project.
- 29 • The information shall not be utilized for determining Utility locations.

30 Refer to Section 1-07.17 of the General Provisions for the limited circumstances in which
31 the Design-Builder may be entitled to an extension of the Contract Time or an increase in
32 the Contract Price because of delays and/or increased costs of the Work that are directly
33 attributable to the correction of inaccurate Utility Information. Unless specified otherwise,
34 the Design-Builder’s reliance on any Utility Information is at the Design-Builder’s sole
35 risk.

36 **2.10.5.2 UTILITY EASEMENTS**

37 All Utility Easements (existing and proposed) within the Project limits shall be identified
38 or described by the Design-Builder in the Final Design Documents. All new Utility
39 Easements within the Right-of-Way are subject to prior Review and Comment by
40 WSDOT.

41 **2.10.5.2.1 Project Utility Easements**

42 WSDOT investigations have identified two Utilities that have easement rights within the
43 Project limits.

1 **2.10.5.2 New Utility Easements**

2 The Design-Builder is advised that WSDOT does not obtain easements for Utilities outside
3 of the Right-of-Way. Utility Owners are entitled to reimbursement of their costs for
4 acquiring such easements only if WSDOT determines that they held a pre-existing property
5 right entitling them to such reimbursement.

6 **2.10.5.3 DESIGN-BUILDER'S INVESTIGATIONS**

7 The Design-Builder shall be solely responsible for verifying, at its expense, the exact
8 horizontal and vertical location, size, type, and all other relevant characteristics of all
9 Utilities located within the Right-of-Way or otherwise potentially impacted by the Project
10 (including any Utilities located on private property), whether or not such Utilities are
11 shown in the Utility Information. Such actions shall include making diligent inquiry at the
12 offices of the Utility Owners, consulting public records, and conducting field studies, as
13 appropriate. The Design-Builder shall consider the possibility that the Utility Information
14 and the information provided by Utility Owners may be inaccurate and incomplete.

15 Refer to Section 1-07.17 of the General Provisions for the Design-Builder's obligations
16 upon determining that any Major Underground Utility was not identified in the Utility
17 Information with Reasonable Accuracy, or identifying any other Utilities not described in
18 the Utility Information.

19 **2.10.5.4 UTILITY MANAGEMENT PLAN**

20 The Design-Builder shall maintain a Utility Management Plan in tabular form, in both
21 electronic and hard copy formats, which shall list each existing and proposed Utility
22 located within the Right-of-Way or otherwise potentially impacted by the Project. At a
23 minimum, the Utility Management Plan shall include the following information for each
24 listed Utility:

- 25 • The name of the Utility Owner;
- 26 • A brief description of the Utility by size and type;
- 27 • The location of the Utility;
- 28 • The proposed disposition (e.g., Relocation, Protection in Place) for the Utility;
- 29 • The determination as to whether the Utility is a Category 1 Utility or a Category 2
30 Utility, based on information provided by WSDOT;
- 31 • The nature of the Utility Owner's right of occupancy of the Right-of-Way for such
32 Utility (e.g., franchise, permit, easement), based upon information provided by
33 WSDOT and the Utility;
- 34 • The status of the applicable Relocation Agreement;
- 35 • The status of Utility design and construction activities; and
- 36 • Such additional information as WSDOT shall reasonably request.

37 The Design-Builder shall update the Utility Management Plan to reflect revisions to Utility
38 Information and status as new information is received.

1 **2.10.6 SCHEDULING, COORDINATION, AND CORRESPONDENCE**

2 **2.10.6.1 SCHEDULING**

3 The Contract Schedule shall identify all Utility Work and allow sufficient time for
4 completion of all such Work.

5 **2.10.6.2 COORDINATION RESPONSIBILITIES**

6 The Design-Builder shall be responsible for coordination with all Utility Owners with
7 Utilities located within the Project limits. Such responsibilities shall include obtaining
8 information from and providing information to the Utility Owners; notifying Utility
9 Owners that Utilities affected will require relocation; coordination and scheduling of
10 design review, inspections, approvals, and acceptances; and coordination and scheduling of
11 construction Work. The Design-Builder is responsible for monitoring the progress of
12 Work by Utility Owners, and for resolving any scheduling difficulties with them.

13 The Design-Builder shall keep Utility Owners informed of the Design-Builder's
14 construction schedules, and of changes which affect their Utilities. The Design-Builder
15 shall also provide Utility Owners with sufficient time to notify their customers of any
16 potential impacts to service.

17 The Design-Builder shall cooperate with the Utility Owners to the extent that such
18 cooperation is consistent with the Design-Builder's obligations pursuant to the Contract
19 and the scope of Work. The Design-Builder shall act diligently in maintaining a positive
20 relationship with the Utility Owners.

21 **2.10.6.3 NOTICES AND CORRESPONDENCE BETWEEN THE DESIGN-BUILDER AND**
22 **UTILITY OWNERS**

23 All notices to Utility Owners from the Design-Builder shall be in writing unless otherwise
24 specified. The Design-Builder shall deliver to WSDOT copies of all correspondence
25 between the Design-Builder and the Utility Owner within seven Calendar Days of receipt
26 or sending, as applicable.

27 **2.10.6.4 MEETINGS WITH UTILITY OWNERS**

28 The Design-Builder shall implement a schedule of periodic coordination meetings with
29 each Utility Owner affected by the Work. Such meetings shall commence as early as
30 possible in the Project design process and shall continue until Completion of the Project (or
31 Completion of the Utility Owner's Relocations, if earlier). Such meetings shall include a
32 preliminary design meeting for the Design-Builder and Utility Owners affected to meet and
33 familiarize themselves with design elements, Utility facilities, and general features of the
34 Project. Thereafter, the frequency of meetings between the Design-Builder and each
35 Utility Owner affected shall be appropriate to the matters under discussion. The Design-
36 Builder shall notify WSDOT at least seven Calendar Days in advance of each meeting, and
37 shall allow WSDOT the opportunity to participate in each meeting.

38 **2.10.6.5 MEETINGS BETWEEN WSDOT AND THE DESIGN-BUILDER**

39 Both WSDOT and Design-Builder representatives shall be available to meet as necessary
40 at the request of either party to discuss and resolve matters relating to Utility Work. The
41 Design-Builder shall schedule such meetings at the reasonable convenience of WSDOT's
42 representatives.

1 **2.10.6.6 MEETING MINUTES**

2 The Design-Builder shall record and maintain minutes of all meetings with Utility Owners
3 and/or WSDOT with respect to Relocation and Utility Work. The Design-Builder shall
4 deliver copies of these meeting minutes to the meeting attendees and make available to
5 WSDOT within seven Calendar Days after each meeting.

6 **2.10.6.7 CONTACT INFORMATION**

7 Utility Owners with Utilities potentially affected by the Project are listed in Appendix U3.
8 The information provided for those Utility Owners includes contact names and mailing
9 addresses. The contact information is current as of the date of issuance of this RFP. The
10 Design-Builder shall be responsible for verifying the accuracy of the contact information
11 and maintaining current contacts for all Utilities affected by the Project, whether or not
12 such Utility Owners are listed in Appendix U3.

13 **2.10.7 DESIGN REQUIREMENTS**

14 **2.10.7.1 GENERAL DESIGN CRITERIA**

15 The Design-Builder shall be responsible for verifying that all design plans for Relocation
16 Work, whether furnished by the Design-Builder or by the Utility Owner, are consistent and
17 compatible with the following:

- 18 • The requirements specified in this Section;
- 19 • The requirements of the applicable Relocation Agreements and Intergovernmental
20 Agreements;
- 21 • The Design-Builder’s design and construction of the Project;
- 22 • Any other Utilities being installed in the same vicinity;
- 23 • Other WSDOT projects; and
- 24 • The terms and conditions of all applicable new and/or amended permits and
25 franchises.

26 The Design-Builder shall confirm that all Relocations to be installed within a limited
27 access Right-of-Way meet WSDOT’s requirements as set forth in the Policy on
28 Accommodation of Utilities on Highway Rights of Way (Chapter 468-34 WAC).

29 **2.10.7.2 RELOCATION DESIGN FURNISHED BY THE DESIGN-BUILDER**

30 Where the Design-Builder and the Utility Owner have agreed that the Design-Builder shall
31 furnish the Relocation design, the Design-Builder shall submit its design to WSDOT and
32 the Utility Owner for Review and Comment. The Design-Builder shall coordinate any
33 necessary modifications and re-submittals with WSDOT and the Utility Owner, and obtain
34 written approval from the Utility Owner prior to commencing construction of the
35 Relocation. All subsequent changes to Relocation designs shall be subject to the same
36 Review, Comment, and written approval process.

37 The Design-Builder is advised that Category 2 Utility Owners are generally entitled to
38 reimbursement of their design review costs as Relocation Costs.

39

1 **2.10.7.3 RELOCATION DESIGN FURNISHED BY THE UTILITY OWNER**

2 The Design-Builder shall coordinate the delivery of each Relocation design to be furnished
3 by the Utility Owner pursuant to the applicable Relocation Agreement. The Design-
4 Builder shall review each design for compliance with the specifications, and shall provide
5 comments to the Utility Owner as appropriate. The Design-Builder shall submit the
6 Relocation design to WSDOT for Review and Comment; transmit WSDOT comments to
7 the Utility Owner; and coordinate modification and re-submittal as necessary.

8 **2.10.8 CONSTRUCTION REQUIREMENTS**

9 **2.10.8.1 GENERAL CONSTRUCTION CRITERIA**

10 The Design-Builder shall be responsible for verifying that all construction of Relocation
11 Work, whether performed by the Design-Builder or by the Utility Owner, complies with
12 the following:

- 13 • The requirements specified in this Section;
- 14 • The requirements of the applicable Relocation Agreements;
- 15 • The Released for Construction Documents;
- 16 • The Design-Builder’s design and construction of the Project;
- 17 • Any other Utilities being installed in the same vicinity; and
- 18 • The terms and conditions of all applicable new and/or amended permits and
19 franchises.

20 The Design-Builder shall cooperate with the Utility Owner to obtain all necessary permits,
21 and assure that Utility Owners meet all Project safety and environmental requirements.

22 **2.10.8.2 SPECIAL QUALIFICATIONS**

23 For any Relocations for which the Design-Builder is assigned responsibility for
24 construction as specified in this Section and in Section 1-07.17 of the General Provisions,
25 and for which special qualifications are required by the Utility Owner to perform such
26 construction, the Design-Builder shall utilize (or cause its subcontractors to utilize)
27 qualified personnel acceptable to the Utility Owner to perform such Relocation Work.

28 **2.10.8.3 INSPECTION**

29 The Design-Builder shall perform all inspection, sampling, and testing of the Utility
30 Owner’s and the Design-Builder’s Relocation Work necessary to comply with its
31 obligations under the Contract, Relocation Agreements, and the Quality Management Plan.
32 The Design-Builder shall immediately notify WSDOT and the Utility Owners regarding
33 any noncompliance.

34 Each Utility Owner shall have the right to inspect construction performed on its Utilities by
35 the Design-Builder. The Design-Builder shall not refuse the inspection requests, and shall
36 coordinate a mutually agreeable schedule and scope with the Utility Owner for the
37 inspections. The Design-Builder shall inform the Utility Owner in writing, prior to
38 commencing any Work, so that the Utility Owner may report such deficiencies to the
39 Design-Builder’s Construction Quality Assurance Manager for resolution.

1 The Design-Builder shall obtain the Utility Owner’s written acceptance of each Utility for
2 which the Design-Builder performs construction Relocation Work, promptly upon
3 completion of the Work. The Design-Builder shall submit the original document of each
4 written acceptance to WSDOT.

5 **2.10.8.4 ABANDONMENT AND REMOVAL**

6 The Design-Builder shall remove any permanently out of service Utility facility from the
7 Right-of-Way unless WSDOT approves abandonment of the facility in place.
8 Abandonment in place shall mean allowing elements of the Utility facility to remain in the
9 Right-of-Way following flushing, capping, grouting, and other Work required to meet
10 Utility Standards and/or Applicable Law (whichever is more stringent).

11 The Design-Builder shall be responsible for all Work associated with the removal and
12 disposal of permanently out of service Utility facilities. If WSDOT approves abandonment
13 in place of a Utility, the Design-Builder shall make all arrangements and perform all Work
14 necessary for any proposed abandonment including design, construction, and consent from
15 Utility Owners and landowners. The Design-Builder shall also obtain any necessary
16 Governmental Approvals and WSDOT approvals and/or permits, or the Design-Builder
17 shall confirm that the Utility Owner has performed the same.

18 The Design-Builder is advised that certain Utilities may be composed of asbestos-coated
19 pipe. The Design-Builder shall design the Project to avoid affecting asbestos-coated pipe
20 where feasible, and shall take all other appropriate action to minimize conflicts with such
21 Utility facilities. Any removal of such pipe shall be performed in compliance with all
22 applicable Governmental Rules and Environmental Laws.

23 Any Utility abandoned outside of the Right-of-Way shall be abandoned in accordance with
24 the Utility Owner's Utility Standards and the standards of the local agency with jurisdiction
25 over the affected Utilities.

26 The Design-Builder shall notify WSDOT in writing of any Utilities that will be abandoned
27 or removed.

28 **2.10.8.5 PROTECTION IN PLACE**

29 The Design-Builder shall be responsible for Protecting in Place (or causing to be Protected
30 in Place by the Utility Owners) all Utilities impacted by the Project (including any Utilities
31 remaining in place, any Utilities installed during the course of the Work, and any Prior
32 Relocations), as necessary to ensure their continued safe operation and structural integrity,
33 in accordance with the requirements of this Section. WSDOT’s prior written approval
34 shall be required for any Utilities proposed to remain in their existing locations other than
35 Prior Relocations.

36 Protection in Place may be permanent or temporary, depending upon the types of measures
37 that are necessary to satisfy the specific requirements of a particular Utility.

38 If the Design-Builder incurs a cost to implement a design to avoid or to provide permanent
39 protection of a Category # 1 Utility, the cost associated with such modification shall be
40 recovered directly from the Utility Owner. The cost for such modifications shall not be
41 included in the lump sum bid cost for the Contract or as a basis for any change order.

42 **2.10.8.5.1 Fire Protection**

43 The Design-Builder shall replace in kind any fire hydrants that are impacted by
44 construction of the Project.

Washington State
Department of Transportation

UTILITY FRANCHISE

FRANCHISE NO. 10109

DISTRICT NO. 1

Name and Address of Applicant:

City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033

The Applicant, hereinafter referred to as the "Utility", having applied for a franchise to construct, operate and maintain an 8 inch ductile iron water main on a portion of State Route No. 405 in King County, Washington, the Washington State Department of Transportation or its designee, hereinafter referred to as the "Department", hereby orders that this franchise be granted for a period to expire NOV 13 2015 subject to the terms and provisions stated upon the reverse hereof and Exhibits attached hereto and by this reference made a part hereof:

Exhibit "A". Special Provisions for Permits and Franchises, Pages 1-5

EXHIBIT "B". Right-of-way plans entitled, "SR 405, Northrup Interchange to NE 140th St.", page 1

A facility entering the right of way at a point east of the centerline of SR 405 opposite approximate Milepost 16.85; thence northerly to a point opposite approximate Milepost 16.97 and leaving the right of way all located in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 17, Township 25 North, Range 5 East, W.M., more specifically described in Exhibit "B":

Construction of facilities proposed under this franchise shall begin not later than 2 years, and completed within 3 years, from date of issuance, otherwise this franchise shall become considered null and void.

DEPARTMENT OF TRANSPORTATION

By: E. R. BurchTitle: STATE DESIGN ENGINEERDate: November 13, 1990

GENERAL PROVISIONS

1. This franchise is subject to Chapter 47.44 RCW and Chapter 468-34 WAC and amendments thereto.
2. Whenever necessary for the construction, repair, improvement, alteration or relocation of all or any portion of said highway as determined by the Department, or in the event that the lands upon which said highway is presently located shall become a new highway or part of a limited access highway, or if the Department shall determine that the removal of any or all facilities from the said lands is necessary, incidental, or convenient to the construction, repair, improvement, alteration or relocation of any public road or street, this franchise may be cancelled (in whole or in part) upon notice by the Department, and any or all of such facilities shall be relocated or removed from said highway as may be required by the Department.
3. Upon failure, neglect or refusal of the Utility to immediately do and perform any change, removal, relaying or relocating of any facilities, or any repairs or reconstruction of said highway herein required of the Utility, the Department may undertake and perform such requirement and the cost and expense thereof shall be immediately repaid to the Department by the Utility.
4. The Utility, its successors and assigns, agrees to protect the State of Washington and save it harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the performance of any such work, character of materials used or manner of installation, maintenance and operation, or by the occupancy of right of way by the Utility; in case any suit or action is brought against the Department for damages arising out of or by reason of any of the above causes, the petitioner, its successors or assigns will, upon notice of commencement of such action, defend the same at its sole cost and expense and satisfy any judgment arising therefrom if determined adverse to the State of Washington.
5. Any breach of any of the conditions and requirements herein made, or failure on the part of the Utility of this franchise to proceed with due diligence and in good faith after its acceptance, with construction work hereunder, shall subject this franchise to cancellation after a hearing before the Department, of which said hearing the Utility shall be given at least ten days written notice, if at that time the Utility is a resident or is doing business in the State of Washington; otherwise, by publishing a notice of said hearing once a week for two consecutive weeks in a newspaper of general circulation in Thurston County, Washington, the last publication to be at least ten days before the date fixed for said hearing.
6. Whenever it is deemed necessary for the benefit and safety of the traveling public, the Department hereby reserves the right to attach and maintain upon any facility by the Utility under this franchise any required traffic control devices, such as traffic signals, luminaries and overhead suspended signs, when the use of such devices or attachments does not interfere with the use for which the facility was constructed. The Department shall bear the cost of attachment and maintenance of such traffic control devices, including the reasonable cost of any extra construction beyond normal; such extra cost to be determined jointly by the Department and the Utility of this franchise. It is not to be construed that the Department is to share in the normal cost of installation, operation or maintenance of any of the facilities installed under this franchise.
7. No assignment or transfer of this franchise in any manner whatsoever shall be valid nor vest any rights hereby granted until the Department consents thereto and the assignee accepts all terms of this franchise. Attempting to assign this franchise without Department consent shall be cause for cancellation as herein provided.
8. The Utility shall within twenty days from receipt of a copy of this order, file with the Department at Olympia its written acceptance of the terms and conditions of this franchise.
9. If the Utility enters into a contract or agreement with a contractor to perform the work provided herein to be performed by the Utility, the Utility for itself, its assigns and its successors in interest, agrees that it will not discriminate on the basis of race, color, sex, or national origin in its choice of contractors and will include all of the nondiscrimination provisions set forth in Appendix "A" from Title VI of the Civil Rights Act of 1964 and Section 162(a) of the Federal Aid Act of 1973 (23 U.S.C. 324), and as said Regulations may be amended. Breach of any of the above nondiscrimination covenants shall be cause for cancellation as herein provided.
10. The Utility pledges that performance of routine cutting and trimming work will be accomplished in such a manner that the roadside appearance will not be disfigured. When major work is involved, or damage to roadside appearance may become significant, the holder shall secure the approval of the Department in advance of the work.



SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

~~PERMIT~~/Franchise No. 10109

Applicable provisions are denoted by (X)

1. No work provided for herein shall be performed until the Utility is granted authorization by the Department's representative:
Name: **Send correspondence to:**
Title: **District Utilities Engineer**
Address: **15325 S.E. 30th Place, Bellevue, WA 98007**
Telephone No. **For preconstruction conference call: Mr. Phil George**
455-7114 (Northrup)
2. A copy of the permit or franchise must be on the job site, and protected from the elements, at all times during any of the construction authorized by said permit or franchise within the Department's right-of-way.
3. In the event any milepost, right-of-way marker, fence or guard rail is located within the limits of this project and will be disturbed during construction, these items will be carefully removed prior to construction and reset or replaced at the conclusion of construction to the satisfaction of the Department. All signs and traffic control devices must be maintained in operation during construction.
4. Prior to construction, the Utility shall contact the Department's representative (listed under Special Provision Number 1) to ascertain the location of survey control monuments within the project limits. In the event any monuments will be altered, damaged or destroyed by the project, appropriate action will be taken by the Department, prior to construction, to reference or reset the monuments. Any monuments altered, damaged or destroyed by the Utility's operation will be reset or replaced by the Department at the sole expense of the Utility.
5. In the construction and/or maintenance of this facility, the Utility shall comply with the Manual on Uniform Traffic Control Devices for Streets and Highways. If determined necessary by the Department, the Utility shall submit a signing and traffic control plan to the Department's representative for approval prior to construction or maintenance operations.
6. The Utility shall notify the Department's representative upon completion of the work under this permit or franchise so that a final inspection can be made and shall immediately furnish to the District Utilities Engineer a revised franchise or permit plan of the final location or relocation of its facilities if the original franchise or permit plans have been revised during the course of construction.
7. Prior to the beginning of construction, a preconstruction conference shall be held at which the Department and the Utility and his engineer, contractor, and inspector shall be present.
8. Should the Utility choose to perform the work outlined herein with other than its own forces, a representative of the Utility shall be present at all times while the construction is in progress unless otherwise agreed to by the Department. All contact between the Department and the Utility's contractor shall be through the representative of the Utility. Where the Utility chooses to perform the work with its own forces, it may elect to appoint one of its employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Utility within the right-of-way, until said requirement is met.
9. The Utility agrees to schedule the work herein referred to and perform said work in such a manner as not to delay the Department's contractor in the performance of his contract.
10. The Utility agrees that when placing its facility within any portions of the roadbed, the trench shall be backfilled in horizontal layers not to exceed 6 inches in loose thickness, except that the layers of the top 2 feet from profile grade shall not exceed 4 inches in loose thickness. Each layer of the entire backfill shall be compacted to not less than 95 percent of the maximum density as determined by compaction control tests. The moisture content of the backfill material at the time of compaction shall be as specified by the Department. In no case will "water setting" be allowed.
11. Work shall be restricted to the hours between _____ and no work shall be allowed on the right-of-way Saturdays, Sundays or Holidays unless otherwise authorized by the Department.
12. If determined necessary by the Department, any or all of the excavated material shall be removed and replaced with suitable material as specified by the Department.
13. Wherever deemed necessary by the Department of Labor and Industries and/or the Department of Transportation, for the safety of the workers and the protection of the highway pavement, the sides of the trench (or excavation) shall be adequately supported to reduce the hazard to workers and prevent any damage by cracks, settlement, etc. to the pavement. No other work in the trench or excavation area will be allowed until this requirement is met.
14. Trenches shall be backfilled as soon as possible behind the laying of pipe or cable. No open trenches shall be left overnight. This includes boring or jacking pits which shall be covered with lumber or other material of sufficient strength to withstand the load of highway traffic if the pit is not to be backfilled with material each night.
15. All slopes, slope treatment, top soil, ditches, pipes, etc., disturbed by this operation shall be restored to their original cross section and condition. All open trenches shall be marked by warning signs, barricades, lights and if necessary, flagmen shall be employed for the purpose of protecting the traveling public. Roadside operations shall be specified by the Department's representative.
16. Where applicable, markers shall be placed at each right-of-way line for all crossings and placed every 500 feet for longitudinal lines to include: company name, pipeline or cable identification, telephone number for contact, and the distance from the marker to the line in feet. Markers shall be placed so as to minimize interference with maintenance operations. Markers shall also be placed at all changes in offset distance from right-of-way line or centerline of highway.

17. In the event that construction and maintenance of the highway facility within the proximity of the utility installation becomes necessary during the period which the Utility will occupy a portion of the right-of-way, it is expressly understood that, upon request from the Department's representative, the Utility will promptly identify and locate by suitable field markings any and all of their underground facilities so that the Department or its contractor can be fully apprised at all times of its precise location.
18. The shoulders, where disturbed shall be surfaced with crushed surfacing top course _____ inches minimum compacted depth, or as directed by the Department's representative. The surface of the finished shoulder shall slope down from the edge of pavement at the rate of 0.02 foot per foot unless otherwise directed. The restored shoulder must not have any strips or sections less than 2 feet wide. The restored shoulder shall be surfaced with _____
19. All crossings of road intersections surfaced with oil, asphalt concrete pavement or cement concrete pavement shall be accomplished by jacking, boring, or augering the cable or pipe under the roadway, unless specifically provided for otherwise under special provision no. 21.
20. The cable or pipe shall be placed within a suitable encasement as specified on the attached exhibits. Said encasement pipe shall be jacked, bored, or augered through the highway grade with a minimum depth of 5 feet from top of casing to finished road grade and a minimum of 3½ feet of depth from bottom of ditch to top of casing.
21. Open trench construction will be allowed only at those locations identified on the plan exhibits and/or listed on Exhibit(s) _____, with restoration to be performed as noted on the attached "Open Cut Detail," Exhibit _____
22. No routine maintenance of this facility will be allowed within the limited access area.
23. Routine maintenance of this facility will not be permitted from the through traffic roadways or ramps of SR _____ and all service to this facility will be by access from _____
24. Bond coverage required to ensure proper compliance with all terms and conditions of said permit or franchise will be furnished by a Blanket Surety Bond held at Headquarters in Olympia.
25. The Utility shall provide to the Department in the amount of \$ _____, a surety bond written by a surety company authorized to do business in the State of Washington or an escrow account with a bank approved by the Department, prior to start of construction, to insure compliance with any and all of the terms and conditions of this permit or franchise. Said bond/account to remain in force for a period ending one year after date of completion of construction.
26. The Utility agrees to bury the aerial lines covered by this franchise in Scenic Classes "A" and "B", as defined on attached Exhibit _____ either at the time of major reconstruction of the line, for that portion of line to be reconstructed, or prior to expiration of this franchise.
27. The Utility agrees to bury the aerial lines covered by this franchise in Scenic Classes "A", "AX", "B" and/or "BX", as defined on attached Exhibit _____, at the time the pole owner buries its facility.
28. The Utility agrees to bury or relocate aerially the existing overhead lines in Scenic Classes "AX" and "BX", as defined on attached Exhibit _____ to a location acceptable to the Department either at the time of major reconstruction of the line, for the portion of line to be reconstructed, or prior to the expiration of this franchise. The existing aerial lines may remain in their present location if acceptable to the Department.
29. The Utility agrees to be responsible for any construction deficiencies as a result of the roadway installation.
30. The Utility will be required to maintain one-way traffic during working hours and two-way traffic at all other times.

SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

- x31. This special provision supersedes Franchise General Provision No. 4, Utility Permit General Provision No. 3 and General Permit General Provision No. 1.

The Utility/Grantee, its successors and assigns, agrees to protect the State of Washington, its officers and employees and save them harmless from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, persons, or property by reason of the acts or omissions of the Utility/Grantee, its assigns, agents, contractors, licensees, employees or any person whomsoever, in connection with Utility's/Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance operation, use or occupancy of the right of way or in the exercise of this permit/franchise. In case any suit or action is brought against the State of Washington, its officers and employees arising out of or by reason of any of the above causes, the Utility/Grantee, its successors or assigns will, upon notice of such action, defend the same at its sole cost and expense and satisfy any judgement against the State of Washington, its officers, or employees: PROVIDED, that if the claims or damages are caused by or result from the concurrent negligence of (a) the State of Washington's agents or employees and (b) the Utility/Grantee or Utility's/Grantee's agents or employees, and involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Utility/Grantee or the Utility's/ Grantee's agents or employees.

The Utility/Grantee, and on behalf of its assigns, agents, licensees, contractors and employees agrees to waive any claims for losses, expenses, damages or lost revenues incurred by it or its agent, contractors, licensees, employees or customers in connection with Utility's/Grantee's, its assigns', agents', contractors', licensees' or employees' construction, installation, maintenance, operation, use or occupancy of the right of way or in the exercise of this agreement against the State of Washington, its agents or employees except the reasonable costs of repair to property resulting from the negligent injury or damage to Utility's/Grantee's property by the State of Washington, its agents, contractors or employees.

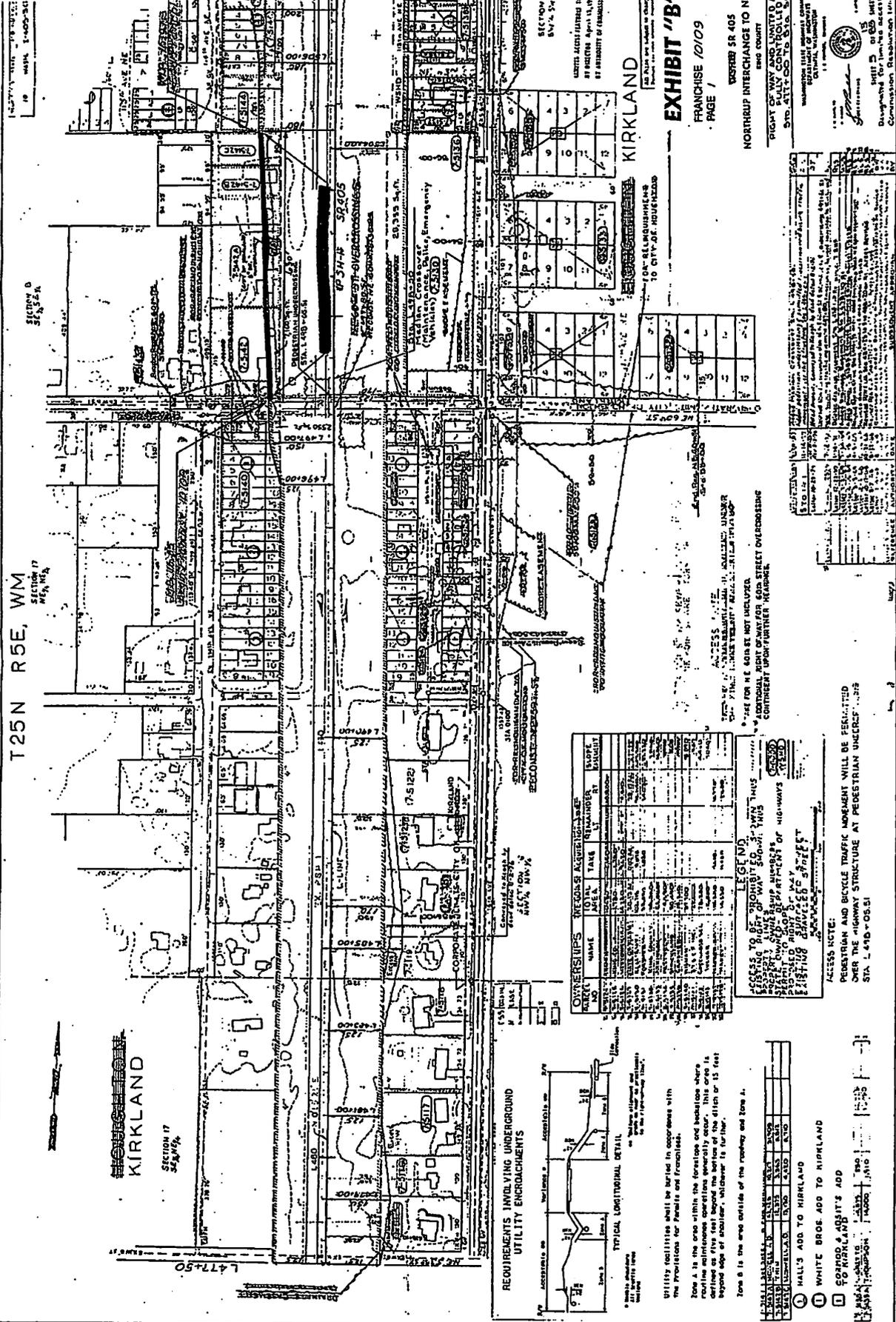
- x32. In lieu of a surety bond to ensure compliance with the terms and conditions of this franchise the City of Kirkland agrees that the Department may effect reimbursement for the amount necessary to restore the highway from the monthly fuel tax allotments which the City of Kirkland is normally entitled to receive from the Motor Vehicle Fund, and in accordance with RCW 47.08.090.

SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

- x33. Construction of this facility will not be permitted from the through traffic roadways, shoulders or ramps of SR 405. All access during construction shall be from outside the State right of way.
- x34. The limited access fence must remain in place or temporarily enclose the work area at all times to prevent access to the highway.
- x35. The Utility shall reimburse the Department for all actual direct and related indirect costs necessitated by this franchise/permit. Such costs include, but are not limited to, plan review and inspection.
- x36. All material and workmanship shall conform to the Washington State Department of Transportation Standard Specifications for Road, Bridge and Municipal Construction, current edition, and shall be subject to inspection by the Department.
- x37. Should the Grantee/Utility choose to perform the work outlined herein with other than its own forces, a representative of the Grantee/Utility shall be present at all times unless otherwise agreed to by the District Representative. All contact between the Department and the Grantee/Utility's contractor shall be through the representative of the Grantee/Utility. Where the Grantee/Utility chooses to perform the work with its own forces, it may elect to appoint one of its own employees engaged in the construction as its representative. Failure to comply with this provision shall be grounds for restricting any further work by the Grantee/Utility within the State right of way, until said requirement is met. The Grantee/Utility, at its own expense, shall adequately police and supervise all work on the above described project by itself, its contractor, subcontractor, agent and others, so as not to endanger or injure any person or property.
- x38. The responsibility of the Grantee/Utility for proper performance, safe conduct and adequate policing and supervision of the project shall not be lessened or otherwise affected by Department approval of plans, specifications or work, or by the presence at the worksite of Department representatives, or by compliance by the Grantee/Utility with any requests or recommendations made by such representatives.
- x39. Utility facilities installed longitudinally within Zone B, outside of Zone A, shall have a minimum cover of 24 inches.

SPECIAL PROVISIONS FOR PERMITS AND FRANCHISES

- x40. The utility shall install detector tape or cable a minimum of 12 inches above the underground facility. The tape shall conform to the standards of the American Public Works Association Uniform Color Code.
- x41. Work within the right of way shall be restricted to between the hours of 9 a.m. and 3:30 p.m., and no work shall be allowed on the right of way Saturday, Sunday or holidays, unless authorized by the Department.
- x42. This facility is considered a transmission main. No connections will be allowed.
- x43. The facility shall be placed a minimum of 6' below the elevation of edge of outside lane or a minimum of 24" below the ground, whichever is lower.

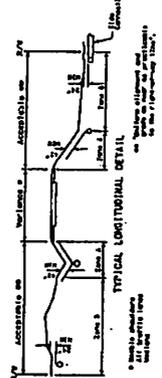


T25N R5E, WM
SECTION 17
34.4 AC.

SECTION 17
34.4 AC.

SECTION 17
34.4 AC.

REQUIREMENTS INVOLVING UNDERGROUND UTILITY ENCROACHMENTS



Utility facilities shall be buried in accordance with the provisions for Panels and Franchises.
Zone A is the area within the formation and backlogs above routine maintenance operations generally occur. This area is defined as five feet beyond the bottom of the ditch or 15 feet beyond edge of shoulder, whichever is further.
Zone B is the area outside of the roadway and Zone A.

UTILITY	DEPTH	ZONE	PROTECTION
WATER	48"	ZONE A	CONCRETE
SEWER	48"	ZONE A	CONCRETE
GAS	48"	ZONE A	CONCRETE
TELEPHONE	18"	ZONE B	CONCRETE
CABLE	18"	ZONE B	CONCRETE

OWNER/SLIP	NAME	TOTAL AREA	REMAINING TO BE ENCLOSED
1
2
3
4
5
6
7
8
9
10

LEGEND
ACCESS TO BE PROHIBITED WITHIN THIS DISTRICT UNLESS THE USER OBTAINS A PERMIT FROM THE CITY OF KIRKLAND. ACCESS TO BE PROHIBITED WITHIN THIS DISTRICT UNLESS THE USER OBTAINS A PERMIT FROM THE CITY OF KIRKLAND.

ACCESS NOTE:
PEDESTRIAN AND BICYCLE TRAFFIC MOVEMENT WILL BE PERMITTED OVER THE HIGHWAY STRUCTURE AT PEDESTRIAN UNDERPASS STA. L 490+05.51

KIRKLAND
EXHIBIT 'B'

FRANCHISE 10/09
PAGE 7

WESTERN SR 405
NORTHROP INTERCHANGE TO NJ
FRANK COUNTY

RIGHT OF WAY CONTROLLED BY WESTERN SR 405 FROM STA. 411+00 TO 515+00

DESIGNED BY: [Signature]
CHECKED BY: [Signature]
DATE: [Date]

APPROVED BY: [Signature]
DATE: [Date]

DRAWN BY: [Signature] DATE: [Date]

UTB 1028
UTILITY CONSTRUCTION AGREEMENT
I-405/NE 6th St to I-5 Widening and Express Toll Lanes Project
Work by State

Exhibit B
Cost Estimate

Category A (Amount paid to State by Utility)

**Utility
Conflict**

ID	Utility Work Description	Amount
308 Rt	Protect in Place 20 inch Water Main	\$17,500.00*
308 Lt	Protect in Place 20 inch Water Main	\$11,000.00*
332B Rt	Protect in Place Sanitary Sewer Line	\$11,000.00

*Amount includes design, construction, and inspection costs including traffic control and site restoration.

Agreement amount \$39,500.00

Category B (♦ \$0.00 Estimated Permit fees paid to Utility by State)

Category B utilities unknown.

1 **1-05.13(1) EMERGENCY CONTACT LIST**

2 The Design-Builder shall submit an Emergency Contact List to WSDOT no later than five Calendar
3 Days after the date the Contract is executed. The list shall include, at a minimum, the Design-
4 Builder's Project Manager, or equivalent, the Construction Manager and the Traffic Control
5 Supervisor. The list shall identify a representative with delegated authority to act as the emergency
6 contact on behalf of the Design-Builder and include one or more alternates. The emergency contact
7 shall be available upon WSDOT's request at other than normal working hours. The Emergency
8 Contact List shall include 24-hour telephone numbers for all individuals identified as emergency
9 contacts or alternates.

10 **1-05.14 COOPERATION WITH OTHER CONTRACTORS**

11 WSDOT may perform other work at or near the Site, including any material site, with other forces
12 than those of the Design-Builder. This work may be done with or without a contract. If such work
13 takes place within or next to this Project, the Design-Builder shall cooperate with all other
14 contractors or forces. The Design-Builder shall carry out Work under this Project in a way that will
15 minimize interference and delay for all forces involved. WSDOT will resolve any disagreements
16 that may arise among the contractors or the Design-Builder and WSDOT over the method or order
17 of doing the Work. WSDOT's decision in these matters shall be final, as provided in Section
18 1-05.1. Refer to TR Sections 2.1 and 2.18 for known projects that are on or near the Project Limits.

19 The coordination of the Work shall be taken into account by the Design-Builder as part of the site
20 investigation in accordance with Section 1-02.4 and any resulting costs shall be incidental and
21 included within the Contract Price.

22 **1-05.15 METHOD OF SERVING NOTICES**

23 Any written notice to the Design-Builder required under the Contract may be served on the Design-
24 Builder either personally or by mailing or by delivery to the last post office address known to
25 WSDOT.

26 The Design-Builder shall require all Subcontractors, suppliers, and other individuals or entities
27 performing or furnishing any of the Work to formally communicate with WSDOT only through the
28 Design-Builder.

29 All correspondence from the Design-Builder shall be directed to the WSDOT Engineer.

30 **1-05.16 GENERAL WARRANTIES**

31 **1-05.16(1) GENERAL WARRANTY**

32 The following general Warranty is in addition to any express Warranties provided for elsewhere in
33 the Contract Documents. The Design-Builder shall represent and warrant the following:

- 34 • All design work performed pursuant to the Contract, including work performed by
35 Subcontractors and manufacturers, conforms to all professional engineering principles
36 generally accepted as industry standard in the state of Washington.
- 37 • The Project is free of defects, including design errors, omissions, inconsistencies, and other
38 defects.
- 39 • Materials, plants, and equipment furnished under the Contract are of good quality, and were
40 new when installed, unless otherwise approved by WSDOT.
- 41 • The work meets all of the requirements of the Contract.
- 42 • The specifications and/or drawings selected or prepared for use during construction are
43 appropriate for their intended use.

- The Project has been constructed so that it can be used for the intended function.

1-05.16(2) GENERAL WARRANTY– TIME OF GENERAL WARRANTY

The general Warranty shall commence on the day of Physical Completion. The general Warranty shall remain in effect until one year after Physical Completion. At any time during the general Warranty period, if WSDOT determines that any of the Work has not met the standards set forth in the Contract, then the Design-Builder shall correct the Work in accordance with this section, even if the performance of such correction extends beyond the stated general Warranty period.

Within 7 Calendar Days of receipt of notice from WSDOT specifying a failure of any work required to satisfy the general Warranty; or specifying a failure of any Subcontractor representation, Warranty, guarantee, or obligation which the Design-Builder is responsible for enforcing, the Design-Builder and WSDOT shall mutually agree when and how the Design-Builder shall remedy such failure. In the case of an emergency requiring immediate curative action, the Design-Builder shall implement such immediate action it deems necessary, and shall notify WSDOT of the urgency of a mutually agreed-upon remedy. The Design-Builder and WSDOT shall agree on a remedy immediately upon notice by or to WSDOT of such emergency. If the Design-Builder does not use its best efforts to proceed to effectuate a remedy within the 7-day period, or if the Design-Builder and WSDOT fail to reach an agreement within the 7-day period (or immediately, in the case of emergency conditions), then WSDOT, upon notice to the Design-Builder, shall have the right to order the Design-Builder to perform the work, or to perform or have performed by others the remedy approved by WSDOT, and the costs shall be paid by the Design-Builder.

1-05.16(3) GENERAL WARRANTY – SUBCONTRACTOR WARRANTIES

Without in any way derogating the Design-Builder’s own representations, warranties, and other obligations with respect to the work, the Design-Builder shall obtain from all Subcontractors and cause to be extended to WSDOT, appropriate representations, Warranties, guarantees, and obligations with respect to design, material, plants, workmanship, equipment, tools, and supplies furnished by all Subcontractors. All representations, Warranties, guarantees, and obligations of Subcontractors shall be in writing, and shall run directly to and be enforceable by the Design-Builder and/or WSDOT and their respective successors and assigns.

1-05.16(4) GENERAL WARRANTY – PERFORMANCE RESPONSIBILITY

The Design-Builder retains responsibility for all work performed on the Project, including all work of Subcontractors and all materials and equipment provided by suppliers, vendors, and/or manufacturers. Upon receipt from WSDOT of notice of a failure of any of the work to satisfy a warranty, representation, covenant, guarantee, or obligation provided by any Subcontractor, the Design-Builder shall be responsible for enforcing or performing any such warranty, representation, covenant, guarantee, or obligation, in addition to the Design-Builder’s other obligations. WSDOT’s rights under this section shall commence at the time the Warranty, representation, covenant, guarantee, or obligation is furnished to WSDOT, and shall continue until the expiration of the Design-Builder’s Warranty, including extensions for repaired or replaced work. Until such expiration, the cost of any equipment, material, plants, labor, including re-engineering, and/or shipping shall be paid by the Design-Builder, if the cost is covered by the warranty, and the Design-Builder shall be required to repair or replace defective equipment, material, plants, or workmanship furnished by Subcontractors.

1-05.16(5) GENERAL WARRANTY – EXTENSION OF GENERAL WARRANTY

The Warranty shall apply to all repaired or replaced work pursuant to the terms of the Contract. The general Warranty for repaired or replaced work shall extend beyond the original Warranty period, if necessary, to provide an additional one-year warranty period following acceptance by WSDOT of

1 any repaired or replaced work.

2 **1-05.16(6) GENERAL WARRANTY – NO LIMITATIONS OF LIABILITY**

3 The Warranty is in addition to all rights and remedies available under the Contract or Applicable
4 Law, and shall not limit the Design-Builder’s liability or responsibility imposed by the Contract or
5 by Applicable Law with respect to the Work, including liability for design defects, latent
6 construction defects, strict liability negligence, or fraud.

7 **1-05.16(7) DAMAGES FOR BREACH OF WARRANTY**

8 In addition to all rights and remedies available under the Contract or Applicable Law, if the Design-
9 Builder fails or refuses to provide the Warranty remedies described in this section, the Design-
10 Builder shall be liable for the cost of performance of the warranty work by others.

11 **1-05.16(8) EXCLUSIONS**

12 The Warranty shall not require the Design-Builder to perform repair or replacement work under the
13 following circumstances:

- 14 • Normal wear and tear, provided that damage and/or deterioration outside allowable limits
15 specified in the Contract shall not be considered normal wear and tear.
- 16 • Failure to perform routine maintenance consistent with policies and/or procedures
17 established by WSDOT or other maintenance agencies, including Utility Owners, or in the
18 absence of such policies and/or procedures in accordance with industry standards of
19 maintenance for similar Projects in the United States.
- 20 • Rebellion, war, riot, act of sabotage, civil commotion, or acts of vandalism.
- 21 • Wind, flood, and/or earthquakes, and other acts of God.
- 22 • Spill or release of hazardous or contaminated substances not caused by the Design-Builder.

23 **1-05.16(9) LANDSCAPING WARRANTY**

24 The Design-Builder shall provide a landscaping Warranty covering all on-site stream and wetland
25 mitigation, roadside restoration, and plant establishment requirements described in Sections 2.8 and
26 2.15, and the Commitments List At any time during the landscaping Warranty period, if WSDOT
27 determines that any of the on-site stream or wetland mitigation, roadside restoration, or other
28 landscaping Work has not met the standards set forth in the Contract, the Design-Builder shall
29 correct the Work, even if the performance of such correction extends beyond the stated landscaping
30 Warranty period.

31 **1-05.16(9).1 Planting Areas and Acceptance of Initial Planting**

32 Design-Builder shall designate large, discrete areas as “planting areas” as indicated in TR
33 Section 2.15 for purposes of acceptance of initial planting and management of the Landscaping
34 Warranty. When Design-Builder’s QA Manager has determined that a given planting area is
35 complete and meets all Contract requirements, Design-Builder may request such area to be
36 accepted by WSDOT for initial planting. Upon concurrence by WSDOT that an area has met all
37 Contract requirements, such area shall be deemed as accepted for initial planting, and the
38 Landscaping Warranty shall commence for that planting area.

39 **1-05.16(9).2 Landscaping Warranty Inspection**

40 WSDOT and the Design-Builder shall conduct joint annual Landscaping Warranty Inspections of
41 the Project commencing one year after the first planting area is accepted for initial planting, and
42 continuing until three years after the last planting area is accepted for initial planting. The

1 measurements and/or tests for those Landscaping Warranty items that require specific remedies
2 shall be taken during the scheduled joint inspections.

3 **1-05.16(10) WARRANTY FOR ILLUMINATION, TRAFFIC SIGNALS, ITS, AND TOLL INFRASTRUCTURE**

4 Refer to TR Sections 2.16, 2.17, 2.18, and 2.26 for Warranty requirements regarding Illumination,
5 Traffic Signals, ITS, and Toll Infrastructure.

6 **1-05.16(11) WARRANTY INSPECTIONS**

7 The failure to conduct any inspection specified shall not invalidate or cancel the warranty
8 provisions, responsibilities, or performance requirements. Notwithstanding the provisions of this
9 section, WSDOT may inspect any component of the Project at any time prior to the completion of
10 the warranty, and issue notice to the Design-Builder to perform repair or replacement Work.

11 **1-05.16(12) WARRANTY PERFORMANCE REQUIREMENTS**

12 In addition to the Warranty provisions of this section, the Work shall meet the requirements
13 specified in the Contract.

14 **1-05.16(13) COSTS OF CORRECTION WORK**

15 All costs of repair and replacement work, including additional testing and inspections, shall be paid
16 by the Design-Builder. The Design-Builder shall reimburse WSDOT within 14 Calendar Days after
17 receipt of WSDOT's invoice.

18 **1-05.16(14) DAMAGES FOR BREACH OF WARRANTY**

19 If the Design-Builder fails or refuses to provide any Warranty remedy described in this section, the
20 Design-Builder shall be liable for the cost of performance of the Warranty work by others.

21 **1-05.16(15) DISPUTES**

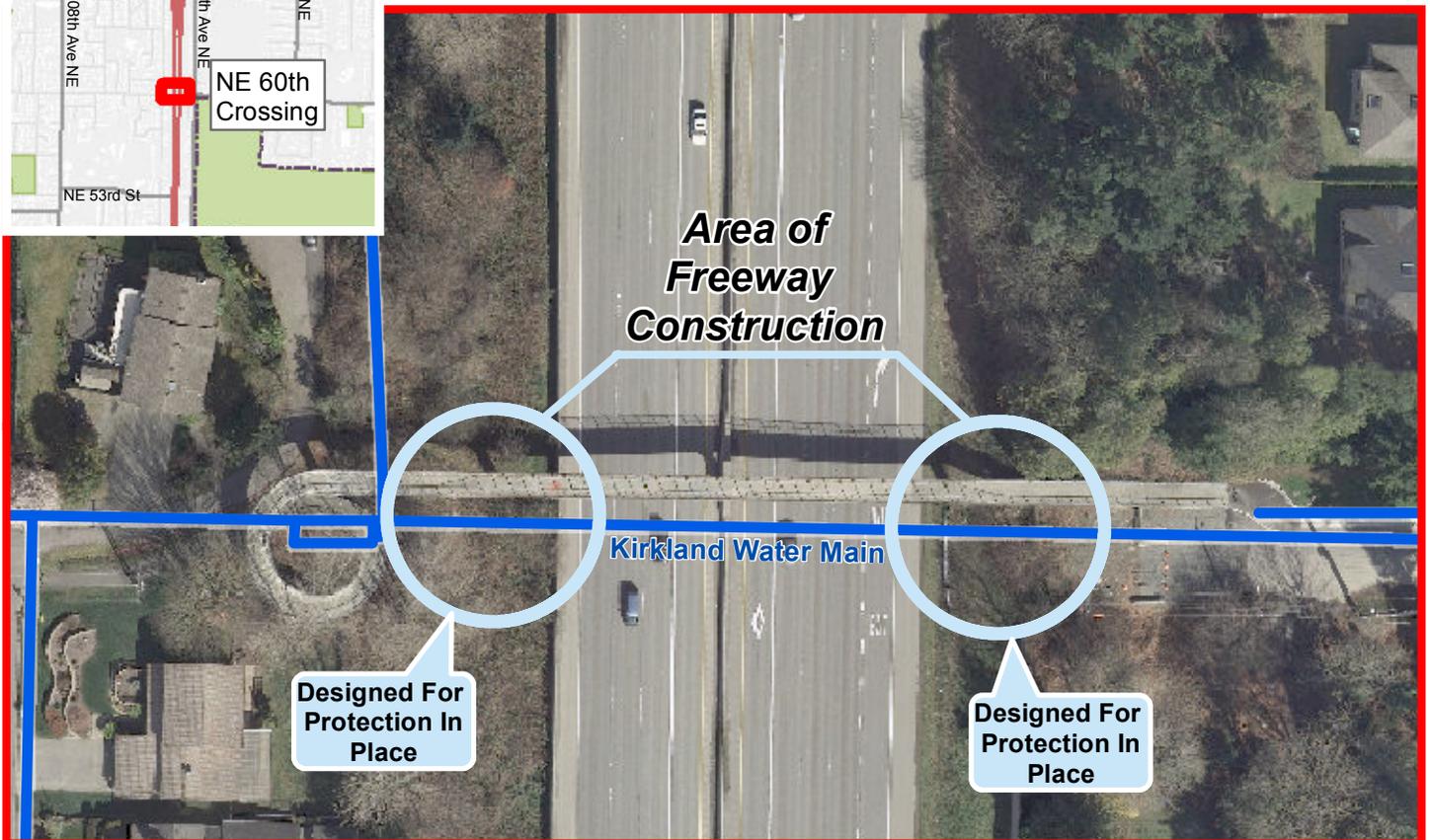
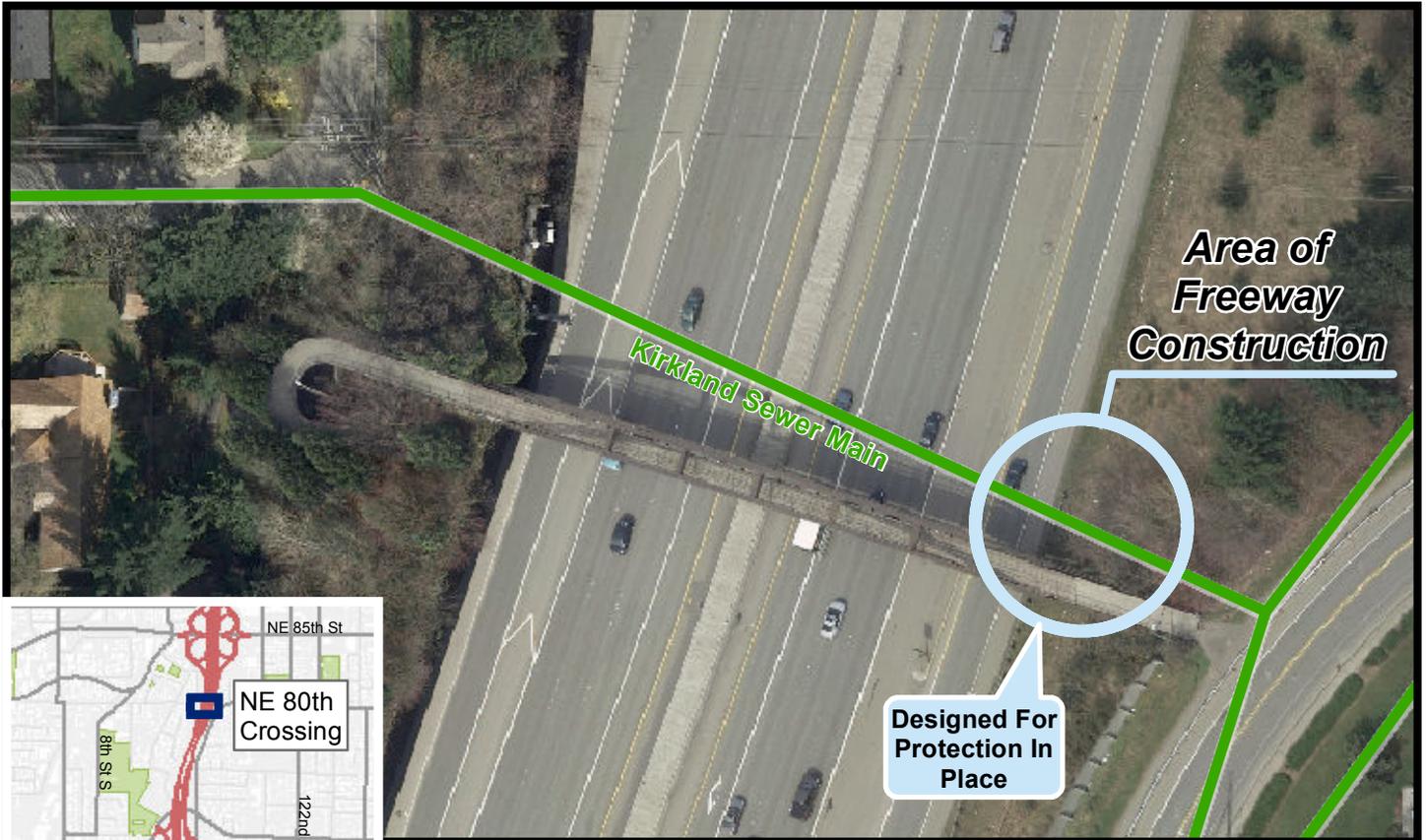
22 Any disagreement between WSDOT and the Design-Builder relating to this section shall be subject
23 to the dispute resolution provisions described in Section 1-04.5, provided that the Design-Builder
24 proceeds as directed by WSDOT, pending resolution of the dispute.

25

I-405, Bellevue-to-Lynnwood Utility Crossings Protect-in-Place

Attachment B

Vicinity Map



FISCAL NOTE

CITY OF KIRKLAND

Source of Request							
Ray Steiger, Public Work Director							
Description of Request							
Request for funding of \$39,500 from the Water/Sewer Capital Reserve to cover expected costs from a utility construction agreement with the Washington State Department of Transportation (WSDOT) to protect-in-place City utility infrastructure located in state-owned right-of-way during the next freeway widening project on I-405.							
Legality/City Policy Basis							
Fiscal Impact							
One-time use of \$39,500 of the Water/Sewer Capital Reserve. The reserve is able to fully fund this request.							
Recommended Funding Source(s)							
Reserve	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
	Water/Sewer Capital Reserve	9,871,542	100,000	0	39,500	9,732,042	N/A
	2011-12 Prior Authorized Use of this reserve: \$100,000 for NE 116th Street Watermain Upgrades						
Revenue/Exp Savings							
Other Source							
Other Information							
The Utility Construction Reserve accounts for capital contributions from utility rates and connections charges and is used to fund capital projects. Capital replacement cycles require that reserves accumulate to pay for future replacement of infrastructure to supplement the use of debt. The liability against this reserve occurs in future years as capital replacement needs peak.							

Prepared By	Neil Kruse, Senior Financial Analyst	Date	March 2, 2012
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