



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: Dave Snider, P.E., Capital Projects Manager
Pam Bissonnette, Interim Public Works Director

Date: April 4, 2013

Subject: City of Bellevue Interlocal Agreement – Job Order Contracting

RECOMMENDATION:

It is recommended that City Council:

- Authorize the City Manager to sign an Interlocal Agreement between Kirkland and the City of Bellevue, for use of a portion of Bellevue's current *Job Order Contracting* (JOC) procurement method for public works project delivery; and
- Authorize up to five *JOC Work Orders* with a not-to-exceed grand total of \$600,000 (in Street Levy funds) for the installation of new Rapid Rectangular Flashing Beacons (RRFB) throughout the City (Attachment A).

BACKGROUND DISCUSSION:

The City Council received a presentation at the April 2 Council meeting on the 2012 Street Levy implementation for 2013-2014. Part of the presentation included a recommended 2013 Crosswalk Initiative, which Council subsequently approved by motion. During that presentation Job Order Contracting (JOC) was discussed as an efficient means of implementing the 2013 Crosswalk Initiative. As an alternative to traditional design-bid-build public works contracting for cities with populations greater than 70,000, the City of Bellevue has utilized a construction contract procurement method known as *Job Order Contracting* (JOC) since July 2010. The City of Bellevue, through a competitive request for proposal process, and as provided for in Chapter 39.10.420, Revised Code of Washington, currently uses JOC for the issuance of individual *Job Work Orders* up to an amount of \$350,000 each, with an annual aggregate maximum of up to \$4,000,000. The City of Bellevue, as a proponent for this type of procurement has previously offered opportunities to King County and the City of Seattle to "piggyback" onto a portion of its current JOC contract, and has now extended that same opportunity to the City of Kirkland as a way to introduce and promote its use.

The JOC procurement method is based on a competitively bid indefinite delivery-indefinite quantity (IDIQ) contract between the City and a "prime" construction contractor. The contract sets parameters such as the types of work that can be done, location of the work, design criteria and maximum amount of work to be awarded. The contract also has a unit-price book

(UPB) that establishes a unit price to be paid for each of a multitude of construction line items. A typical UPB has over 40,000 line items and covers almost every construction task. Items that are not in the UPB can be negotiated, priced, and added to the UPB at any time. The interlocal agreement with Bellevue allows Kirkland to use the UPB negotiated by Bellevue. Kirkland will work directly with Bellevue's JOC contractor to complete the RRFB projects using Bellevue's UPB.

Once a JOC contract is in place, actual work requirements can be accomplished more quickly than the conventional design-bid-build procurement method. Typically, the City will give the JOC contractor a simple description of work to start the process. The contractor's project manager then arranges for a site visit and prepares a simplified design. Once the design is approved, the contractor and the City prepare a cost estimate by compiling the appropriate quantities of necessary UPB line items. After the cost estimates are completed and a price is agreed to, a *Job Work Order* is issued to the contractor and construction begins.

Benefits of JOC

1. It fosters partnering in order to produce high quality construction and service.
2. The prime contractor can prequalify and use the finest subcontractors, including Disadvantaged, Women Owned and local sub-contractors.
3. It is fast and responsive, taking days instead of weeks or months between scoping and construction. This quick turn-around is a major advantage and generally results in overall cost savings for the City.
4. It produces a long-term relationship, fixed pricing and simplified paperwork to help meet the City's expectations for performance and price. The prime contractor is motivated to impress the City with fast, dependable, quality service in order to receive the maximum possible amount of work from call-backs.
5. The simplified design documents and acquisition process eliminates the need for complicated and repetitive contract documents. Job orders are negotiated on a line-by-line basis under the guidelines and specifications of the overall contract.
6. In case there are problems with the prime contractor, the City can unilaterally decide to stop using the contractor once a guaranteed minimum amount is paid. As a performance based procurement system, the JOC contractor can also be terminated due to a lack of performance.
7. All procurement activities utilizing *Job Order Contracting* are well documented and reported to the Washington State Capital Projects Advisory Review Board (CPARB) for tracking purposes. The Bellevue City Council is provided with an annual copy of that report, including all "piggybacking" activities for the year.

Immediate Application

After receiving the 2012 Street Levy information at their regular meeting of April 2, City Council authorized staff to invest two-years (\$600,000) of safe route to schools and pedestrian safety funds into the *2013 Crosswalk Initiative* for the upgrade of as many of the 14 non-functioning pedestrian crossing light systems as possible. The proposed crosswalk improvements are spread throughout the city, with most located close to schools and parks, and the *Crosswalk Initiative* would replace these non-working units with new Rectangular Rapid Flashing Beacons (RRFB).

In consultation with Bellevue staff and the Bellevue JOC contractor, Kirkland staff believes that the JOC procurement is an ideal method for an expedient, efficient and cost effective method for replacing the non-working in-pavement flashing crosswalk lights with RRFB's. As part of that consultation and evaluation, Kirkland staff met directly with the Bellevue JOC contractor and conducted a "test contract" and found the scoping process to be fast and collaborative. The quoted price for the sample replacement ended up being on-par with the average cost the City incurred to install the RRFB's during the 2011 Crosswalk Upgrade Project, as completed in January 2012; however, the 2011 Crosswalk Upgrade Project took over 10-months to complete only 4 units using the more conventional design-bid-build method of contract delivery. With 14 RRFB needing to be installed, staff feels the JOC delivery method will best serve the City's interest through a more timely delivery.

Conclusion

The proposed Kirkland – Bellevue JOC Interlocal appears to be a beneficial way for the City of Kirkland to become familiar with the JOC procurement and project delivery method. This type of procurement method has worked very well for the City of Bellevue and staff believes that the method will work equally well for Kirkland. The Interlocal with Bellevue will also allow Kirkland to have a well-guided entry to this type of procurement.

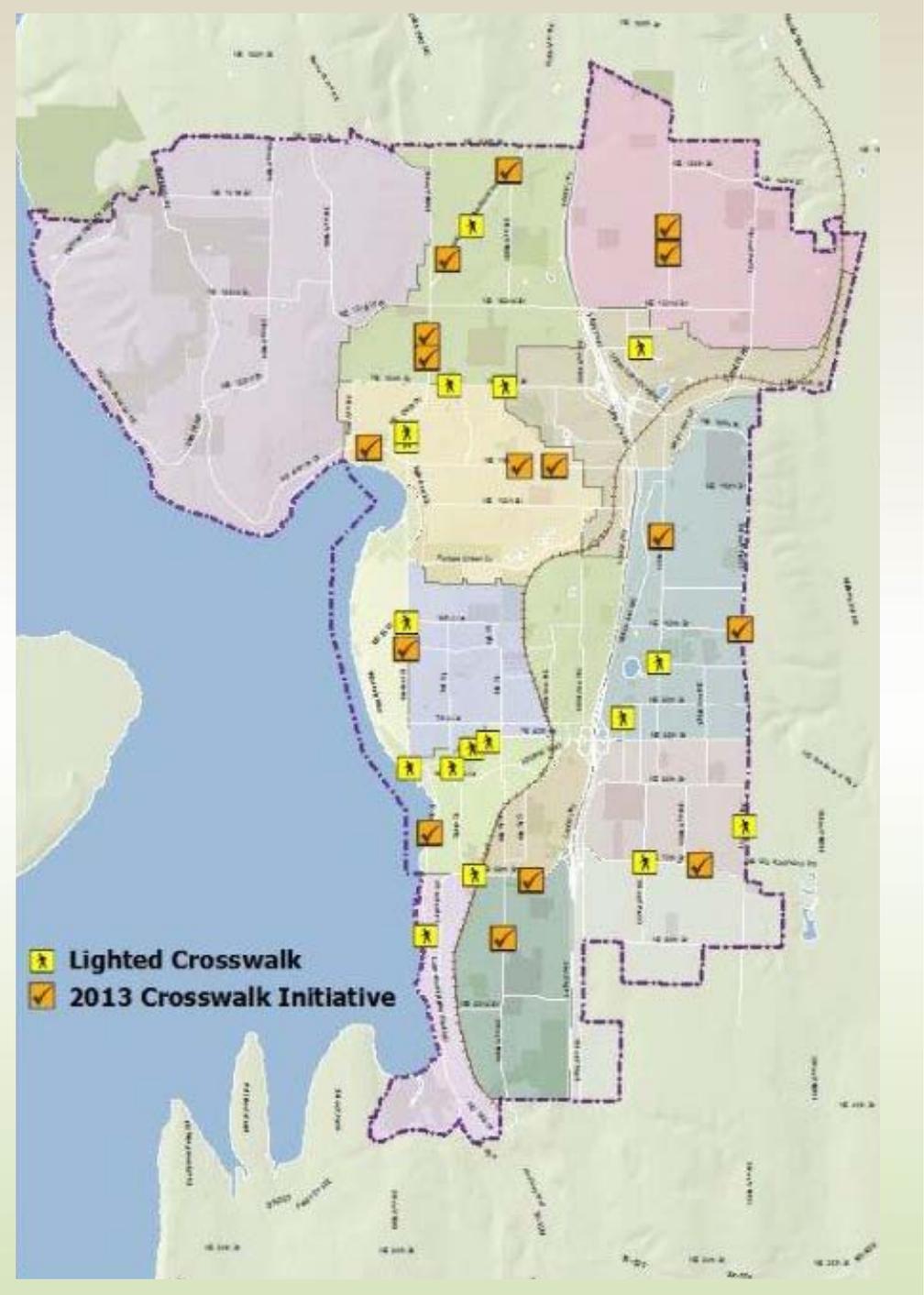
With authorization to sign the Interlocal, staff will immediately begin the process of RRFB procurement and installation and will report back to City Council with regular updates. Initially, staff is recommending a low guaranteed minimum single *Job Work Order* contract amount equivalent to the cost of 2 RRFB's (approximately \$110,000) to see if the process works as anticipated. If deemed competitive, when compared to the cost and delivery using the conventional delivery method of design-bid-build, staff will issue additional *Job Orders* as appropriate to meet the delivery schedule and maximum amount of available funding.

Attachments:

Attachment A – Crosswalk Map
Resolution
Exhibit A - Interlocal Agreement

2013 Crosswalk Initiative

- **Juanita Woodinville Way/ NE 143rd Pl**
- **Juanita Woodinville Way/ NE 136th St**
- **124th Ave NE/ NE 140th St**
- **124th Ave NE/ NE 137th Pl**
- **100th Ave NE/ NE 128th St**
- **100th Ave NE/ NE 126th St**
- **Juanita Drive/Juanita Beach Park**
- **NE 116th St/ 110th Ave NE**
- **NE 116th St/ 113th Pl NE**
- **124th Ave NE/ Boys and Girls Club**
- **132nd Ave NE/ NE 100th St**
- **Market Street/ 15th Ave**
- **Lake Washington Blvd/ 7th Ave S**
- **NE 68th St/111th Ave NE**
- **NE 70th St/ South Rose Hill Park**
- **108th Ave NE/ NE 60th St**



RESOLUTION R-4973

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF KIRKLAND AND THE CITY OF BELLEVUE TO ALLOW KIRKLAND TO UTILIZE THE JOB ORDER CONTRACTING CONTRACT OF THE BERSCHAUER PHILLIPS CONTRACT AND THE GORDIAN AGREEMENT.

WHEREAS, the City of Bellevue has entered into various job order contracts with Berschauer Phillips Construction Company as authorized by Chapter 39.10, Revised Code of Washington, including the Job Order Contracting Contract between Bellevue and Berschauer Phillips dated July 8, 2010; and

WHEREAS, Bellevue has also contracted for consulting services with the Gordian Group regarding the development and management of these job order contracts pursuant to a Job Order Contracting Consulting Services Agreement between Bellevue and Gordian dated December 2, 2009; and

WHEREAS, the City of Kirkland wishes to utilize, in part, the terms and conditions of the Berschauer Phillips Contract and the Gordian Agreement to perform various Kirkland work order projects on Kirkland facilities; and

WHEREAS, Bellevue desires to enter into this Agreement with the City of Kirkland to allow Kirkland to utilize the terms and conditions of the Berschauer Phillips Contract and the Gordian Agreement; and

WHEREAS, Chapter 39.34 RCW authorizes Kirkland and Bellevue to enter into an interlocal cooperation agreement to perform any governmental service, activity or undertaking which each contracting party is authorized by law to perform;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City of Kirkland an Interlocal Agreement substantially similar to that attached as Exhibit "A", which is entitled "Interagency Agreement Between City of Bellevue Washington and City of Kirkland Washington."

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2013.

Signed in authentication thereof this ____ day of _____, 2013.

MAYOR

Attest:

City Clerk

INTERAGENCY AGREEMENT BETWEEN
CITY OF BELLEVUE WASHINGTON

AND

CITY OF KIRKLAND WASHINGTON

INTERAGENCY AGREEMENT NO: _____
_____, 2013

This Agreement is made and entered into by and between the City of Bellevue, Washington, hereinafter referred to as "Bellevue" and the City of Kirkland, Washington, hereinafter referred to as "Kirkland," each party having been duly organized and now existing under the laws of the State of Washington.

WHEREAS, Bellevue has entered into various job order contracts with Berschauer Phillips Construction Company; ("Berschauer Phillips") as authorized by Chapter 39.10, Revised Code of Washington, including that certain Job Order Contracting Contract between Bellevue and Berschauer Phillips dated August 2, 2012 ("Berschauer Phillips Contract"); and

WHEREAS, Bellevue has also contracted for consulting services with The Gordian Group ("Gordian") regarding the development and management of these job order contracts pursuant to that certain Job Order Contracting Consulting Services Agreement between Bellevue and Gordian dated December 2, 2009 ("Gordian Agreement"); and

WHEREAS, Kirkland wishes to utilize, in part, the terms and conditions of the Berschauer Phillips Contract and the Gordian Agreement to perform various Kirkland work order projects on Kirkland facilities; and

WHEREAS, Bellevue desires to enter into this Agreement with Kirkland to allow Kirkland to utilize the terms and conditions of the Berschauer Phillips Contract and the Gordian Agreement; and

WHEREAS, the parties hereto have determined that they have the authority to enter into this Agreement in accordance with Washington law (RCW 39.34) and their respective policies and procedures, as amended.

NOW, THEREFORE, in consideration of the above and foregoing recitals, the mutual promises and covenants herein contained, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. STATEMENT OF WORK

Bellevue shall pursue a no cost change to the Gordian Agreement requesting that Gordian furnish the consulting services described in such Agreement directly to Kirkland on the same terms and conditions of the Gordian Agreement, except that the obligations owed to the City of Bellevue under such agreement will be owed by Gordian to Kirkland, including but not limited to obligations to provide performance and payment bonds for work performed and insurance endorsements that name the City of Kirkland as additional insured. Thereafter, Gordian shall directly invoice Kirkland for any and all such services provided, and all such invoices shall state "All work described herein provided directly to Kirkland and the Gordian Group are subject to the terms and conditions of that certain Job Order Contracting Consulting Services Agreement between Bellevue and The Gordian Group dated 11/23/09. The City of Bellevue is not a party to nor responsible for performance of or payment for the work described in this invoice."

In addition, Bellevue shall pursue a no cost change to the Berschauer Phillips Agreement requesting that

Berschauer Phillips provide Kirkland with job order construction services on Kirkland facilities directly to Kirkland on the same terms and conditions of the Berschauer Phillips Agreement, except that the obligations owed to the City of Bellevue under such agreement will be owed by Berschauer Phillips to Kirkland, including but not limited to obligations to provide performance and payment bonds for work performed and insurance endorsements that name Kirkland as additional insured. Berschauer Phillips shall directly invoice Kirkland for any and all such work provided, and all work orders shall state "All work described herein provided directly to Kirkland and Berschauer Phillips are subject to the terms and conditions of that certain Job Order Contracting Contract between Bellevue and Berschauer Phillips dated August 2, 2012. The City of Bellevue is not a party to nor responsible for performance of or payment for the work described in this work order." Kirkland shall issue all work orders and perform all fiscal and program responsibilities for the projects to be identified by Kirkland.

Bellevue shall provide copies of the referenced changes to Kirkland. Kirkland shall not issue any work orders under either the Berschauer Phillips Contract or the Gordian Agreement until such changes have been executed. In the event that the changes are not executed, this Agreement shall terminate, and neither party shall bear any additional obligations or liabilities hereunder, and each party shall bear its own costs associated with the Agreement

2. TERMS AND CONDITIONS

Kirkland and Bellevue agree that any work performed for Kirkland by Gordian, Berschauer Phillips and its respective subconsultants or subcontractors under this Agreement shall be conducted in accordance with the provisions of the Gordian Agreement and/or the Berschauer Phillips Contract. Insurance Indemnification and Performance/Payment bonds as specified in the Gordian Agreement and Berschauer Phillips Contract shall insure to the benefit of Kirkland on work orders issued by Kirkland.

3. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence when this Agreement is properly signed by both parties and be completed no later than August 2, 2014, unless mutually changed by Amendment to this Agreement.

4. COMPENSATION; PAYMENT PROCEDURE

The total value of all work orders issued by the Kirkland to Gordian and Berschauer Phillips shall not exceed \$600,000. Gordian and Berschauer Phillips shall directly invoice Kirkland and Kirkland shall directly pay both Gordian and Berschauer Phillips pursuant to the payment and compensation terms identified within the Gordian Agreement or Berschauer Phillips Contract, respectively.

5. RECORDS MAINTENANCE

Bellevue, Kirkland, and their contractors, subcontractors, sub-consultants, representatives and employees shall each maintain books, records, documents, and other evidence for five (5) years after the expiration of this Agreement (unless another period of time is specified in applicable records retention policies in which case such policies shall prevail). Unless an applicable exception to public review or a privilege applies, these records shall be subject to inspection, review, or audit by personnel of both parties' other personnel duly authorized by either party, or the Washington State Auditor. .

6. CONTRACT MANAGEMENT

(a) The Kirkland Capital Projects Manager, or their designee, will be the Kirkland Representative for all communications regarding this Agreement. The Kirkland Representative shall be responsible for monitoring the performance of this Agreement and fulfilling Kirkland's responsibilities as addressed herein.

(b) Mayvis Schwab will be the Bellevue Representative for all communications regarding this Agreement. The Bellevue Representative shall be responsible for monitoring the performance of this Agreement and

fulfilling the City's responsibilities as addressed herein.

(c) Rory Woolsey will be the Gordian Representative for all communications regarding the consulting services provided to Kirkland.

(d) James E. Phillips, Eric Lindstrom and Chuck Meyer shall serve as Berschauer Phillips Representatives for all communications regarding the job order construction services as addressed herein.

7. INDEMNIFICATION AND HOLD HARMLESS

Kirkland specifically acknowledges that the City of Bellevue shall have no liability or responsibility for the performance of Gordian or Berschauer Phillips with respect to Kirkland work orders. Kirkland shall defend and hold the City of Bellevue harmless from any and all claims, suits, losses, costs (including attorney's fees), and/or damages of any kind whatsoever arising out of or in any way resulting from Kirkland's issuance of work orders and performance by any party pursuant to same facilitated by this Agreement. The City of Bellevue makes no representations or warranties of any kind, including, without limitation regarding the contractors, performance, or terms and conditions of the Gordian Agreement or the Berschauer Phillips Contract.

8. AMENDMENTS TO AGREEMENT

Bellevue and Kirkland may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the parties or their respective delegates.

9. TERMINATION

Either party may terminate this Agreement upon thirty (30) days written notification. If this is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

10. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any parties hereto.

CITY OF BELLEVUE

CITY OF KIRKLAND

By: _____

By: _____

Kurt Triplett, City Manager

Approved as to form:

Approved as to form:

By: _____

By: _____
Kirkland City Attorney

ATTEST:

ATTEST:

DATE _____

DATE _____

DRAFT