



INTERLOCAL AGREEMENT

ALLOWING NORTHSHORE UTILITY DISTRICT TO PARTNER WITH THE CITY OF KIRKLAND IN THE 2009 eCityGov ALLIANCE DIGITAL ORTHOPHOTOGRAPHY PROJECT

The City of Kirkland (hereinafter the "City") and the Northshore utility District (hereinafter the "District"), both municipal corporations, in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW) do hereby agree as follows:

1. PURPOSE

The purpose of this agreement is to include the District's service area (the "Service area") in the 2009 eCityGov Alliance ("the Alliance") Digital Orthophotography Project ("the Project") in which Kirkland is participating. Due to the significant overlap of their respective boundaries, the parties have determined that it is in their mutual best interest to coordinate their aerial mapping procurement through the Alliance's regional effort.

2. THE PROJECT

The parties hereby agree that the Alliance's procurement process conducted in the fourth quarter, 2008, is acceptable for this agreement. That process included the publication of an RFP, competitive scoring of responses based on best value to the Alliance, selection of a contractor ("Contractor"), and preparation of a final professional services agreement and technical scope of work. Eight cities, including Kirkland, participated in this procurement under the guidance of a project manager under contract to the Alliance. The cities furthermore agreed to a common technical specification for the final digital orthophotography products.

3. PROJECT COSTS

The District will be responsible for their proportionate share of the vendor costs associated with providing complete orthophotography coverage of the Service area. For the purposes of this Interlocal agreement, the District's share is \$33,718 as outlined in Exhibit A of this agreement.

4. THE PROCEDURE

a. Responsibilities

Under this agreement, the City, as a charter member of the Alliance, will be the primary participant in the Project. The District will be a second-tier participant in

the Project, through the City, but will be included in all communications, status reports, and decision-making as the Project is planned and executed.

b. Contractor Selection

The Alliance shall enter into a professional services agreement with the Contractor that in the Alliance's opinion is best suited to execute the Project and meet the Alliance's needs. The Alliance's NWMaps.net Technical Committee and consultant project manager will jointly manage the Project under the general direction of the Alliance Executive Director. The Alliance will rely on Project participants to assist in the review of project work products. The City will afford the District the opportunity to review these products as well and will either forward any comments to the Alliance or, if the Alliance agrees, hereby authorizes the District to forward any comments or concerns directly to the Alliance. . District staff will be invited to all project meetings beginning with the kickoff meeting at which the Contractor will review their proposed work plan.

c. eCityGov Alliance as Contracting Agency

The Alliance shall serve as the sole contracting agency during the performance of this Project. Participating cities will provide input into the decision-making affecting management of the project. The City, through its participation in the Alliance's NWMaps.net Technical Committee, shall work closely with the District to ensure that District input is communicated effectively to the committee and the Alliance Executive Director.

d. Change Orders

The City may approve changes in those parts of the Contract providing for products in the Service area, provided that if any change order would change the nature of the work or would cause that portion of the contract price attributable to such adjustment to increase by more than \$1,000.00 or cumulatively more than two percent (2%) of the original contract amount attributable to the Service area, the District's prior consent to the change orders shall be obtained, which consent shall not be unreasonably withheld. In the event that consent is unreasonably withheld, the District will be held responsible for all liability incurred by the City resulting from such withholding of consent. The City shall as soon as reasonably possible provide the District with copies of all requests for change orders and executed change orders associated with the District's portion of the contract regardless of the dollar amount of the change order.

e. Payment Procedure

The City shall provide the District with monthly progress billings for that portion of the Project attributable to the Service area. The District shall pay the City for the cost of the District's component of the work, as provided in the contract bid (as

adjusted by change order), based upon agreed upon progress, within forty five (45) days of receipt of each billing.

f. Final Acceptance

That portion of the Contractor's work related to the Service area shall not be given final acceptance until it is approved in writing by the City and the District. Neither party shall unreasonably withhold approval for final acceptance. The work product of the Service area shall become the property of the District upon final acceptance to the same extent the City's portion of the work product has become the property of the City. The City agrees to authorize the District to pursue all warranties related to the Service area.

g. Staff Time, Costs, and Incidental Expenses

At all times material hereto, the parties shall separately bear their own staff time, engineering costs, and incidental expenses.

Should any claims arise related to the District's portion of the Project, the City shall handle and administer such claims in the same manner as it would handle any other claims on the Project. The City shall immediately notify the District and keep it informed as to the progress of the claim. The District will provide guidance to the City regarding proposed terms of settlement. Any decision regarding the settlement or prosecution of a claim shall be approved by the District prior to being finalized. If the District and the city cannot agree as to the prosecution or settlement of a claim, the District may prosecute or defend the claim and the City will assign such claims to the District so long as the District agrees to provide the City with benefits equal to those it would have received if the settlement or prosecution had been handled as the City preferred. The District agrees to pay all costs of prosecution or defense if assigned such claims and defend, indemnify and hold harmless the City from all damages arising from the District's prosecution or defense of the claim.

h. District Inspections

The City expects that District staff will be available to assist in the review of orthophoto products for those portions of its Service area external to the City or the City's potential annexation area (PAA). The City will advise the District at least 24 hours prior to such materials being shipped to the District. The District agrees to provide such inspection within seven (7) business days and communicate the results to the City promptly thereafter. The Alliance's NWMaps.net Technical Committee and consultant project manager should be available to assist District staff with the technical procedures to be used in these quality reviews, if requested to do so.

5. INDEMNIFICATION

The City shall defend, indemnify, and save harmless the District, its officers, officials, employees and agents, while acting within the scope of their employment as such,

from any and all costs, claims, judgments, and/or awards of damages, arising out of the City's negligent acts or omissions in the performance of this agreement. The District shall defend, indemnify and save harmless the City, its officers, officials, employees and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of the District's negligent acts or omissions in the performance of this agreement. Each Party agrees that its obligations under this subparagraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that either Party incurs any judgment, award, and/or cost arising therefrom, including attorneys' fees, to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability. This indemnification shall survive the termination of this Agreement.

6. NOTICES AND OTHER COMMUNICATIONS

All notices and other formal communications to be delivered under this Agreement shall be mailed or delivered to the following:

City of Kirkland	Northshore Utility District
Brenda Cooper, Information Technology Director or his designee	Dave Kaiser, Engineering Manager or his designee
123 Fifth Avenue	P.O. Box 489
Kirkland, Washington 98033-6189	Kenmore, Washington 98028 - 0489

Provided, however, the parties may change their respective designation of representatives by written notification to one another.

7. INTEGRATION AND MODIFICATION

This Agreement constitutes the final and completely integrated agreement between the parties concerning its subject matter and it may be signed in counterparts without affecting the validity of this provision. No modification of this agreement or this section is valid unless in writing and signed by both parties.

8. ASSIGNMENT

Neither party to this Agreement shall transfer or assign any right or obligation hereunder without the prior written consent of the other party.

The date of this Agreement is _____, 2009.

Execution of this Agreement by the undersigned representatives of each party has been authorized by Resolution No. _____ of the City of Kirkland and Resolution No. N/A of the Board of Commissioners of the Northshore Utility District.

CITY OF KIRKLAND

NORTHSHORE UTILITY DISTRICT



City Manager



General Manager

Approved as to form:



City Attorney