

RESOLUTION NO. 18 - 0373

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON**

IN THE MATTER OF EXECUTING AN INTERLOCAL)
AGREEMENT BETWEEN THE CITY OF SPOKANE VALLEY)
AND SPOKANE COUNTY TO ALLOW THE CITY OF) **RESOLUTION**
SPOKANE VALLEY TO PROVIDE ENGINEERING DESIGN)
SERVICES FOR SPOKANE COUNTY PUBLIC WORKS)

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington, ('the Board') has the care of county property and the management of county funds and business; and

WHEREAS, pursuant to Chapter 39.34 RCW, Chapter 35.77 RCW, and Chapter 47.24 RCW, the City of Spokane Valley ('the City') and Spokane County ('the County') may enter into a cooperative Interlocal Agreement wherein the City can perform engineering design services for the County as mutually agreed upon; and

WHEREAS, the CITY is the project sponsor for the proposed Barker Road/BNSF Grade Separation Project (BARKER PROJECT); and

WHEREAS, the BARKER PROJECT necessitates a new three legged roundabout for the Barker Road and Trent Avenue (State Route 290) intersection; and

WHEREAS, the proposed BARKER PROJECT is located within the CITY limits and unincorporated County jurisdiction; and

WHEREAS, the COUNTY is interested in the feasibility of providing a new county road (CONNECTION) to the Highland Estates subdivision from the proposed BARKER PROJECT's roundabout; and

WHEREAS, the COUNTY is willing to pay the CITY for the engineering design services for the CONNECTION; and

WHEREAS, the County, pursuant to RCW 35.77.020, by resolution of the Board must approve the cooperative agreement between the City of Spokane Valley and the County; and

WHEREAS, the Spokane County Engineer recommends the approval of this Interlocal Agreement as it is in the best interest of the public; and

WHEREAS, the Board feels that the best interests of the public will be served by entering into said agreement with the City of Spokane Valley.

NOW, THEREFORE BE IT RESOLVED by the Board that the Interlocal Agreement between the City of Spokane Valley and the County for the City to provide engineering and design services is approved.

BE IT FURTHER RESOLVED by the Board that the Interlocal Agreement between the City of Spokane Valley and the County may be executed by the Chair, or a majority of the Board, at other

than an open meeting and any addendum to said agreement may be executed by the Spokane County Engineer.

PASSED AND ADOPTED this 22nd day of May, 2018.

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON



ATTEST:

By

Ginna Vasquez
Ginna Vasquez, Clerk of the Board

Josh Kerns
Josh Kerns, Chair

Mary Z. Kuney
Mary Kuney, Vice-Chair

Al French
Al French, Commissioner

**INTERLOCAL AGREEMENT
ENGINEERING DESIGN SERVICES
CITY OF SPOKANE VALLEY
AND
SPOKANE COUNTY**

This Interlocal Agreement (AGREEMENT) for Design Services is made and entered into by and between the CITY OF SPOKANE VALLEY (CITY), a municipal corporation within the State of Washington, having offices for the transaction of business at 10210 East Sprague Avenue, Spokane Valley, WA 99206 and SPOKANE COUNTY (COUNTY), a political subdivision of the State of Washington, having offices for the transaction of business at 1116 West Broadway Avenue, Spokane WA 99260. Together, the CITY and the COUNTY are referred to as the PARTIES.

WHEREAS, the PARTIES enter into this AGREEMENT pursuant to chapter 39.34 RCW (Interlocal Cooperation Act), chapter 35.77 RCW (Streets ~ Planning, Establishment, Construction, and Maintenance), and chapter 47.24 RCW (City Streets as Part of State Highways).

WHEREAS, the CITY is the project sponsor for the proposed Barker Road/BNSF Grade Separation Project (BARKER PROJECT); and

WHEREAS, the BARKER PROJECT necessitates a new three legged roundabout for the Barker Road and Trent Avenue (State Route 290) intersection; and

WHEREAS, the proposed BARKER PROJECT is located within the CITY limits and unincorporated County jurisdiction; and

WHEREAS, the COUNTY is interested in the feasibility of providing a new county road (CONNECTION) to the Highland Estates subdivision from the proposed BARKER PROJECT's roundabout; and

WHEREAS, the COUNTY is willing to pay the CITY for the engineering design services for the CONNECTION; and

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, it is agreed among the CITY and COUNTY as follows:

ARTICLE 1-RESPONSIBILITY OF THE CITY

- 1.1. The CITY shall provide the engineering design services for the CONNECTION.
- 1.2. The CITY shall take the engineering design services to a design level determined under Article 2.1. Environmental permitting and documentation, and right-of-way services are not considered as part of the engineering design services.
- 1.3. The CITY shall provide to the COUNTY all design files, calculations, memorandums, reports, and associated design information or files related to the engineering design of the CONNECTION.

- 1.4. The CITY shall submit to the COUNTY, on a regular basis, a bill requesting reimbursement for the costs associated with the engineering design services for the CONNECTION.

ARTICLE 2-RESPONSIBILITY OF THE COUNTY

- 2.1. The COUNTY shall determine the scope of the engineering design services.
- 2.2. The COUNTY shall coordinate with the CITY to determine the schedule and fee for the engineering design services provided by the CITY's consultant.
- 2.3. The COUNTY shall reimburse the CITY for the actual cost of completing the engineering design services which will include the full direct and indirect cost of all engineering design services including costs incurred by the CITY for the work.
- 2.4. Within 30 days of receiving reimbursement request, the COUNTY shall pay to the CITY the full amount of said reimbursement request.

ARTICLE 3-GENERAL PROVISIONS

- 3.1. **Amendment:** This AGREEMENT may be amended or modified only by the mutual agreement of the PARTIES. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the PARTIES.
- 3.2. **Term of AGREEMENT:** This AGREEMENT will terminate upon completion of the scope of work pursuant to Article 2.1. The PARTIES may extend the term of this AGREEMENT by mutually executing an amendment which specifies a new termination date.
- 3.3. **Termination of AGREEMENT:** This Agreement may be terminated at any time by mutual written consent of the COUNTY and the CITY. If this AGREEMENT is terminated pursuant to this section, the CITY shall continue performing services through the date of termination. The COUNTY shall compensate the CITY for all services performed by the CITY through the date of termination. The COUNTY obligation to make such final payment to the CITY shall survive the termination of this AGREEMENT.

If this AGREEMENT, including any addendum, is terminated prior to the fulfillment of the terms of this AGREEMENT or addendum, the COUNTY agrees to reimburse the CITY for the actual costs, both direct and indirect, it has incurred for the work up to the date of termination, as well as the actual costs, both direct and indirect, for those products or services which were obligated prior to the date of termination and are non-cancelable.

Any termination of this AGREEMENT or an addendum shall not prejudice any rights or obligations accrued to the PARTIES prior to termination.

- 3.4. **Independent Contractor:** The CITY shall be deemed an independent contractor for all purposes, and the employees of the CITY or any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be employees of the COUNTY.

- 3.5. **Indemnification:** The COUNTY shall defend, indemnify, and hold the CITY, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees arising out of or in connection with the performance of this AGREEMENT or an addendum, except for injuries and damages caused by the sole negligence of the CITY.

Should a court of competent jurisdiction determine that this AGREEMENT or an addendum is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the COUNTY and the CITY, its officers, officials, employees, and volunteers, the COUNTY'S liability hereunder shall be only to the extent of the COUNTY'S negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the COUNTY'S waiver of immunity under Title 51 RCW (Industrial Insurance) solely for the purposes of this indemnification. This waiver has been mutually negotiated by the PARTIES.

- 3.6. **Disputes:** In the event that a dispute arises under this AGREEMENT or an addendum, it shall be resolved as follows.
- 3.6.1. The CITY and the COUNTY shall each appoint a member to a disputes board. Those two members shall select a third board member not affiliated with either Party. 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 aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute.
- 3.6.2. The PARTIES shall equally share in the cost of the third disputes board member; however, each Party shall be responsible for its own costs and fees.
- 3.7. **Venue:** If either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT or an addendum, the PARTIES agree that any such action or proceedings shall be brought in Spokane County Superior Court. Further, the PARTIES agree that each will be solely responsible for payment of its own attorney's fees, witness fees, and costs.
- 3.8. **Audits/Records:** All records for the completed PROJECT, in support of all costs incurred, both direct and indirect, shall be maintained by the CITY for a period of six (6) years. The COUNTY shall have full access to and right to examine said records, during normal business hours, and as often as it deems necessary. Should the COUNTY require copies of any records, it agrees to pay the costs thereof. The PARTIES agree that the work performed herein or under an addendum is subject to audit by either or both PARTIES and/or their designated representatives, and/or State of Washington and/or the federal government.
- 3.9. **All Writings Contained Herein/Binding Effect:** This AGREEMENT, along with an adopted addendum, contains the terms and conditions agreed upon by the CITY and COUNTY. The CITY and COUNTY agree that there are no other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT. No changes or additions to this AGREEMENT shall be valid or binding upon the CITY or COUNTY unless such change or addition is in writing and mutually executed by the PARTIES.

- 3.10. **Interpretation:** This AGREEMENT has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each Party that this AGREEMENT shall be governed by the laws of the State of Washington both as to interpretation and performance. Each Party consents to the personal jurisdiction of the Spokane County Superior Court of the State of Washington for all claims, disputes, proceedings, or actions in any way arising under, or relating to, this AGREEMENT or an addendum.
- 3.11. **Severability:** The PARTIES agree that if any parts, terms, or provisions of this AGREEMENT or an addendum are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the PARTIES shall not be affected regarding the remainder of the AGREEMENT or an addendum. If it should appear that any part, term, or provision of this AGREEMENT or an addendum conflicts with any statutory provision of the State of Washington, then the part, term, or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this AGREEMENT or an addendum shall be deemed to be modified to conform to such statutory provision.
- 3.12. **Headings:** The section headings appearing in this AGREEMENT or an addendum have been inserted solely for convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit, or extend the scope or intent of the sections to which they pertain.
- 3.13. **No Third-Party Beneficiaries:** Nothing in this AGREEMENT is intended to give, or shall give, whether directly or indirectly, any benefit or right, greater than that enjoyed by the general public, to third persons.

ARTICLE 4- RCW 39.34 REQUIRED CLAUSES

- 4.1. **Purpose:** Authorize the CITY to provide to the COUNTY *engineering design services* for the northern leg (CONNECTION) of the roundabout at Barker Road and Trent Avenue (SR 290), (BARKER PROJECT). The CITY has hired an engineering consultant to prepare the design of the BARKER PROJECT. The COUNTY will coordinate with the CITY to determine the final scope, schedule, and fee for these services.
- 4.2. **Organization of Separate Entity and Its Powers:** No new or separate legal or administrative entity is created to administer the provisions of this AGREEMENT or any addendum.
- 4.3. **Duration:** See Article 3.2 Term of AGREEMENT.
- 4.4. **Termination:** See Article 3.3 Termination of AGREEMENT.
- 4.5. **Property Upon Termination:** See Article 1.4.
- 4.6. **Responsibilities of the PARTIES:** See various provisions throughout this AGREEMENT.

- 4.7. **AGREEMENT to be Filed:** The COUNTY shall file this AGREEMENT or any amendment with the County Auditor or, in the alternative, place the AGREEMENT or any amendment on the COUNTY'S website or other electronically retrievable public source.
- 4.8. **Representatives:** The PARTIES hereby appoint the following individuals as their respective representatives for administering the terms of this AGREEMENT or any addendum.

City of Spokane Valley

Spokane County

William S. Helbig, PE
City Engineer

Chad W. Coles, P.E.
Spokane County Engineer

City of Spokane Valley
10210 East Sprague Avenue
Spokane, WA 99206

Spokane County Public Works
1026 West Broadway Avenue
Spokane, WA 99260-0170

509-720-5320

509-477-3600

bhelbig@spokanevalley.org

ccoles@spokanecounty.org

The PARTIES warrant that the officers executing below have been duly authorized to act for and on behalf of the Party for purposes of confirming this AGREEMENT.

This AGREEMENT between the PARTIES is entered into this 22nd day of May, 2018

In witness, whereof, the PARTIES hereto below have executed this AGREEMENT.

City of Spokane Valley

Spokane County

Signature: Mark Calhoun
Mark Calhoun
City Manager

Signature: Josh Kerns
Josh Kerns **18-0373**
Chair, Board of Spokane County Commissioners

Date: 6/6/2018

Date: 5.22.18