

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works, Engineering & Construction Division

DATE: July 7, 2020

REQUESTED ACTION: Authorize the County Manager to sign an Interlocal Agreement with the City of Vancouver for the Northeast 68th Street Sidewalk project. CRP No. 372122

Consent Hearing County Manager

BACKGROUND

Clark County and the City of Vancouver have historically worked together to coordinate, plan, construct, and maintain public works infrastructure. This interlocal agreement has been prepared so that Clark County and the City of Vancouver can continue to cooperatively work together for efficiency and cost effectiveness. This agreement allows our agencies to collaborate on the development and construction of the Northeast 68th Street Sidewalk project (CRP No. 372122) from Highway 99 to St. Johns Road, about 1.3 miles. A portion of this project is in the County and a portion in the City limits.

Clark County and the City of Vancouver were awarded grants from the Transportation Alternatives and Congestion Mitigation and Air Quality Improvement federal programs to partially fund the project for construction.

This interlocal agreement outlines the financial and grant requirements in addition to the responsibilities of each agency for the execution of the project work.

COUNCIL POLICY IMPLICATIONS

None. This action is consistent with county policy to leverage partnerships for more effective use of public funds.

ADMINISTRATIVE POLICY IMPLICATIONS

None. This agreement conforms to RCW Chapter 39.34 – Interlocal Cooperation Act.

COMMUNITY OUTREACH

The Northeast 68th Street project has a public outreach plan that is being executed as the project develops. Project updates have been mailed to the public and a project open house was held on June 4, 2019.

BUDGET IMPLICATIONS

YES	NO	
✓		Action falls within existing budget capacity.
	✓	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	✓	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	N/A
Grant Fund Dollar Amount	N/A
Account	N/A
Company Name	N/A

DISTRIBUTION:

Council staff will post all staff reports to the web. <https://www.clark.wa.gov/council-meetings>

ATTACHMENTS: (1) Interlocal Agreement; (2) PowerPoint

Tom Grange

Tom Grange, PE
Engineering & Construction Division Manager

Ahmad Qayoumi

Ahmad Qayoumi, PE
Public Works Director/County Engineer

Eva Haney

Eva Haney, CGFM
Finance Division Manager

Primary Staff Contact: Matt Hall, ext. 4225

APPROVED: *Eileen Durug*
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: 7-7-2020

SR# 094-20

Kathleen Otto



**INTERLOCAL AGREEMENT BETWEEN
CLARK COUNTY AND THE CITY OF VANCOUVER**

For the

**NE 68th Street Sidewalk Project
(Clark County Project No. CRP #372122)
(City of Vancouver Project No. PRJ072462)**

This interlocal agreement (Agreement) is entered into between Clark County and the City of Vancouver (Vancouver) pursuant to the State of Washington Interlocal Cooperation Act, chapter 39.34 RCW. Both entities may be referred to in this Agreement collectively as "Parties" or individually as a "Party".

I. PURPOSE

The purpose of this agreement is to define the services, funding, and payment method for the development and construction of the NE 68th St. Sidewalk Project (Project). The services generally include administrative, engineering, professional, real property, and construction services.

II. THE PROJECT

The project involves the planning, design, property acquisition, permitting, and construction of a sidewalk along NE 68th Street between NE Highway 99 and St. Johns Road (see EXHIBIT A). The length of the project is approximately 1.3 miles (6,750 lineal feet), with a portion being within each jurisdiction. The city limits is at approximately NE 28th Avenue and the length of the Vancouver segment is approximately 0.25 miles (1,348 lineal feet). The project is being funded by Clark County, the City of Vancouver, and federal grants from the Federal Highways Administration (FHWA). Other funding sources may be awarded as the project evolves. The current federal grants will support construction for both agencies (Vancouver and Clark County).

III. PROJECT FUNDING

Clark County and Vancouver have applied jointly for Transportation Alternatives (TA) and Congestion Mitigation and Air Quality Improvement (CMAQ) federal grants hereinafter "TA grant," and "CMAQ grant" respectively, to partially fund the Project for construction only.

Vancouver agrees to contribute its projected share based on the current estimate for the Project, an amount equal to the actual direct and related indirect costs for Vancouver's portion of the work (identified by roadway stations below).

The TA grant awarded the Project \$1,100,000 for construction only and requires a local match of 13.5 percent (13.5%). The CMAQ awarded the Project \$600,000 and required a local match of 13.5 percent (13.5%). The Project's total construction estimated cost is three million, eight hundred ninety-five thousand dollars (\$3,895,000). The Project construction amounts for Clark County is two million, six hundred fifty thousand dollars (\$2,650,000). The construction contract for Vancouver is estimated at one million, two hundred forty-five thousand dollars (\$1,245,000). Vancouver's portion of the TA and CMAQ grants is seven hundred thousand dollars (\$700,000). The portion of Clark County's TA and CMAQ grants is one million dollars (\$1,000,000). Vancouver agrees to pay for all Vancouver construction cost relating to work between stations 71+51 to 84+80. The grants will pay for seven hundred thousand dollars (\$700,000) of Vancouver's work and Clark County will request matching funds to support Vancouver's construction as part as Vancouver's portion of funding.

IV. SERVICES

Clark County and Vancouver are both providing services for the delivery of the project. Clark County is providing design services (consultant design), topographic surveying, right-of-way plans, and legal descriptions within Clark County's jurisdiction. Vancouver is providing design services (consultant design), and topographic surveying, within Vancouver's jurisdiction. Additionally, Clark County is providing the following services for the entire project (both Clark County and Vancouver portions):

- a. **Project Management Services:** Clark County is providing overall management of the project in coordination with Vancouver. This generally involves preparing and managing the project scope of work, project budget, and schedule. Other tasks include managing the consultant design services and coordination with other disciplines at Clark County and Vancouver, facilitating monthly team meetings and other meetings as needed, coordination of utility service providers, community outreach efforts, coordinating plans/specification reviews at milestones, communicating project information and status to Clark County and Vancouver stakeholders.
- b. **Real Property Services:** This work involves services necessary to acquire the property and agreements needed for the projects. This includes research, project right-of-way funding estimates, appraisals, relocation documentation (if

needed), property owner negotiations and associated documentation, all in accordance with WSDOT and FHWA requirements (Uniform Act).

- c. **Surveying:** Develop right-of-way plans and legal descriptions for properties in both jurisdictions.
- d. **Environmental Permitting:** Clark County and Vancouver segments will be permitted as one project with Clark County leading all permitting tasks. Sign-offs will be needed by both jurisdictions for documentation and application submittals to the various agencies. Expenses for preparing the permits and documentation are in the consultant contracts for each agency.
- e. **Construction Bidding:** Once contract documents have been prepared and approved by both parties, Clark County will bid the project for construction. These tasks generally include printing, advertising the contract for bids, issuing any needed addendums, publicly opening bids, reviewing bids, and awarding / executing a contract with the successful bidder.
- f. **Construction Contract Administration:** Once executed, Clark County will administer the construction contract, paying contractor invoices, and provide staff to inspect the contractor's work. Construction surveying, staking, and testing of materials and in-place work will also be provided by the County.
- g. **Grant Administration:** Clark County will administer the grants for this project, in coordination with Vancouver. Grant administration generally includes communicating with funding partners, submitting required agreements and tracking reports, and billing grants for project expenses.

V. CONSTRUCTION CONTRACT and ADMINISTRATION

The construction contract for the Project will be bid, awarded, and administered by Clark County. The guidelines and requirements for bidding and awarding a construction contract are outlined in the WSDOT Standard Specifications and the WSDOT Local Agency Guidelines. The construction estimate and contract bid proposal for the project will include two schedules of work, one for each jurisdiction. This will allow Clark County and Vancouver to keep track of the construction work within each jurisdiction (other schedules may be included in the bid proposal for utility work).

Clark County will open contractor bids in a public forum and bids will be reviewed according to the WSDOT Standard Specifications. Each agency will review the bid and provide a

recommendation on the award of a construction contract. Both agencies must sign (execute) the contract with the successful contractor.

VI. COMPENSATION

Vancouver agrees to compensate Clark County for actual cost of services rendered, including overhead costs.

- a. **Project Management:** Clark County's estimate of project management costs for the Vancouver portion of the project is \$8,000. Vancouver will compensate Clark County for a percentage of the actual project management cost for the entire project. This cost is based on Vancouver's percentage of the entire project length (20%).
- b. **Topographic Surveying:** Clark County's estimate for construction surveying for the Vancouver portion of the project is \$10,000. Vancouver will compensate Clark County for the actual cost of work within Vancouver jurisdiction.
- c. **Environmental Permitting:** Clark County's estimate of environmental permitting costs for the Vancouver portion of the project is \$1,500. Vancouver will compensate Clark County for a percentage of the actual environmental permitting cost for the entire project. This is based on Vancouver's percentage of the entire project length (20%).
- d. **Real Property Services:** Clark County's estimate of Real Property Services administrative costs for the Vancouver portion of the project is \$40,000. Vancouver will compensate Clark County for the actual administrative costs when working on property acquisition within Vancouver jurisdiction. Also, Clark County Real Property Services negotiation and acquisition will result in a compensation settlement agreement with each property owner in Vancouver jurisdiction. Settlements will be based on appraised values and Just Compensation. Administrative settlements over 10% of the Just Compensation amount will be subject to approval by Vancouver. Once an agreement is reached Vancouver will pay the settlement amount directly to the property owner.
- e. **Construction Services:** Clark County's compensation for construction services will be calculated based on the overhead rate applied to contractor payments for work within Vancouver jurisdiction. Clark County will pay contractor invoices for work within Vancouver jurisdiction. Clark County will then bill Vancouver for this work and include an overhead charge for Clark County's construction services.

- f. **Grant Administration:** The grant administration work by Clark County is considered de minimus and therefore no compensation is required.

The total dollar amount of Clark County services to be billed to Vancouver will include overhead charges. Two overhead charges will be used, one for construction services and one for all other services provide by Clark County. Clark County's current overhead rate for construction services is 11.14 percent of the construction contract amount for work on the Vancouver portion. Clark County's current overhead rate for all other services is 14.13 percent of the project expenses. Overhead rates are subject to change over the life of the Agreement.

Clark County will bill Vancouver for the grant match, including any overages, and other work performed on a monthly basis. Vancouver agrees to pay invoices within 30 days of receipt of invoices.

VII. INTERLOCAL ADMINISTRATION

Pursuant to RCW 39.34.030(4)(a), administration of this Agreement is shared by both agencies. No new or separate legal or administrative entity is created to administer the provisions of this Agreement. Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it. Each party accepts responsibility for compliance with federal, state, or local laws and regulations.

VIII. INDEPENDENT CONTRACTOR

The services provided by either party to this Agreement are independent in nature. Employees of Clark County are and will remain employees of Clark County. Employees of Vancouver are and will remain employees of Vancouver. Neither Party is entitled to the employment benefits of the other Party including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to the employees of each respective Party.

IX. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

X. INDEMNIFICATION

Each party shall defend, protect and hold harmless the other party from and against all claims, suits and/or other actions arising from any negligent or intentional act or omission of

that party's employees, agents and/or authorized subcontractor(s) while performing this Agreement. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, entity, firm or corporation not a party to this Agreement.

XI. AMENDMENT

Clark County and Vancouver may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to sign on behalf of the party. The Councils of Clark County and Vancouver authorize the following personnel, or their successors, to sign amendments to the Agreement:

Clark County

Kathleen Otto

Interim County Manager

City of Vancouver

Eric Holmes

City Manager

XII CHOICE OF LAW AND VENUE

This Agreement will be governed by the laws of the State of Washington, both as to interpretation and performance. The venue for any dispute related to this Agreement shall be in accord with RCW 36.01.050(3).

XIII. WAIVER

Failure of either party to declare any breach or default by the other party immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such breach or default, nor shall the inaction impact assertion of breach or default for future similar conduct.

XIV. INTEGRATION CLAUSE

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this Agreement that may serve to bind the parties to the purpose of this Agreement beyond or contrary to the provisions of this Agreement. This Agreement supersedes all previous communications, representations or agreements, either oral or written that were related to the subject matter of the Agreement. Any provision of this Agreement declared invalid or illegal shall in no way effect or invalidate any other provision.

XV. ATTORNEY FEES

In the event a party to this Agreement defaults on a term of the Agreement of performance thereof, and the other party places the enforcement of the Agreement in the

hands of an attorney, the parties hereto agree to bear their own attorneys' fees, costs and expenses.

XVI. TERMINATION CLAUSE

All obligations of this Agreement shall continue until the Agreement is either terminated in writing, as stated below, or completion of the project, unless stated otherwise in this Agreement.

Either party may terminate this Agreement by delivering notice of termination to the other party. Termination will not be effective prior to the passing of ninety days from the date notice is properly provided to the non-terminating party. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement that is provided prior to the effective date of termination.

XVII. DISPUTES

In the event that a dispute arises under this Agreement, it will be resolved in the following manner: Clark County and Vancouver will each individually appoint one member to a Dispute Board. Those two appointed member will then jointly appoint a third member. The Dispute Board will evaluate and make a determination of the dispute. The decision of the Dispute Board may be appealed to the Superior Court for *de novo* review.

XVIII. RECORDING

As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has (i) been duly executed by both parties, and (ii) filed with the Clark County Auditor by Clark County.

XIX. TERM

This Agreement will take effect upon proper recording or posting and will remain in effect until completion of the project, unless terminated as provided herein. The parties have caused duplicate originals of this Agreement to be executed on the day and year the last signature hereto is affixed.

IN WITNESS WHEREOF, the Parties hereto have executed this Interlocal Agreement on the dates indicated below.

CLARK COUNTY, WASHINGTON

**CITY OF VANCOUVER, WASHINGTON
A MUNICIPAL CORPORATION**

Kathleen Otto
Kathleen Otto, Interim County Manager

Eric Holmes, City Manager

Dated this 8 day of July, 2020

Dated this ____ day of _____, 2020

ATTEST:

Natasha Ramras, City Clerk

APPROVED AS TO FORM:

Tony Golik, Prosecuting Attorney

APPROVED AS TO FORM:

Bill Richardson
By: Bill Richardson
Civil Deputy Prosecuting Attorney

By: Jonathan Young
City Attorney

Interlocal Agreement with the City of Vancouver

Northeast 68th Street Sidewalk Project

Clark County Public Works



Interlocal Agreement with the City of Vancouver

- The agreement allows our agencies to work together on the development and construction of the Northeast 68th Street Sidewalk project from Highway 99 to St. Johns Road.
- Clark County and the City of Vancouver were awarded grants from the Transportation Alternatives (TA) and Congestion Mitigation and Air Quality Improvement (CMAQ) federal programs to partially fund the project for construction.
- The interlocal agreement outlines the responsibilities of each agency for the execution of the project work, along with the financial and grant requirements.



Northeast 68th Street Sidewalk Project

Highway 99 to St. Johns Road

