

**HIGHLINE WATER DISTRICT  
King County, Washington**

**RESOLUTION 23-4-19A**

**RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN KING COUNTY AND HIGHLINE WATER DISTRICT RELATING TO PROJECT 22-1 KING COUNTY LAKE TO SOUND TRAIL WATER MAIN RELOCATION**

**WHEREAS**, the District owns and operates certain water facilities located within the right-of-way of the City of Burien (City) along Des Moines Memorial Drive near Normandy Park Road; and,

**WHEREAS**, King County Parks (County) will be constructing a new pedestrian path within the vicinity known as the Lake to Sound Trail (County Work) that conflicts with the District's water facilities; and,

**WHEREAS**, the City has directed the District to relocate the water facilities in conflict with the proposed trail; and,

**WHEREAS**, the District has identified and budgeted resources for the project (District Work) as 22-1 King County Lake to Sound Trail Relocation in the 2023 Capital Improvement Plan; and,

**WHEREAS**, Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities; and

**WHEREAS**, integrating the District Work into the County Work would be more expedient, less expensive, and less disruptive to the public than if the District and County undertook the projects separately; and

**WHEREAS**, the Parties desire to establish a formal arrangement under which the District will pay the County in consideration of the County incorporating the District Work into the design and construction of the County Work; and

**WHEREAS**, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs, and liabilities regarding this undertaking.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The General Manager or designee is authorized to enter an Interlocal Agreement with King County (Attachment #1 incorporated herein) to incorporate the design of the water relocation work into the design and construction of the County Work.
2. The General Manager and/or the District's legal counsel are authorized to make minor changes to the Interlocal Agreement if required.

# HIGHLINE WATER DISTRICT King County, Washington

## RESOLUTION 23-4-19A

**ADOPTED BY THE BOARD OF COMMISSIONERS** of Highline Water District, King County, Washington, at an open public meeting held this **19<sup>th</sup>** day of **April 2023**.

### BOARD OF COMMISSIONERS

DocuSigned by:

*Daniel Johnson*

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**Daniel Johnson, President**

DocuSigned by:

*Polly Daigle*

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**Polly Daigle, Commissioner**

DocuSigned by:

*Vince Koester*

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**Vince Koester, Commissioner**

DocuSigned by:

*Kathleen Quong-Vermeire*

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**Kathleen Quong-Vermeire, Secretary**

DocuSigned by:

*Todd Fultz*

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**Todd Fultz, Commissioner**

**INTERLOCAL AGREEMENT BETWEEN KING COUNTY AND HIGHLINE WATER DISTRICT  
FOR CONSTRUCTION OF WATER DISTRIBUTION FACILITIES AS PART OF THE LAKE  
TO SOUND TRAIL SEGMENT C BURIEN PROJECT**

This Interlocal Agreement("Agreement") is entered into between **King County**, a home rule charter county and political subdivision of the State of Washington (the "County") and **Highline Water District**, a Washington municipal corporation, located and doing business at 23828 30<sup>th</sup> Avenue South, Kent, Washington 98032 (the "District"); (individually a "Party" and collectively the "Parties").

**RECITALS**

- A. The County is constructing the Lake to Sound Trail Segment C within the City of Burien (City) street right-of-way for Des Moines Memorial Drive between South Normandy Road and 8<sup>th</sup> Avenue South ("Segment C").
- B. The District operates and maintains water distribution facilities within the City's right-of-way and the Segment C work limits. Said water distribution facilities are in conflict with the project design plans. The City desires the District to relocate the water distribution facilities within the Segment C work limits ("District Work").
- C. The County is willing to incorporate the District Work into its Segment C work conditioned on the District reimbursing the County for the cost to administer and perform the District Work.
- D. The Parties can achieve cost savings and benefits in the public's interest by combining construction of Segment C and District Work, hereinafter the "Project".

**AGREEMENT**

**Section 1. General:** The County, as agent acting for and on behalf of the District, agrees to perform the District Work, in accordance with and as described in the Scope of Work marked **Exhibit A** and the Plans and Specifications marked **Exhibit B** attached hereto, which by this reference are made part of this Agreement.

**Section 2. Construction Plans:** Plans, Specifications and cost estimates for the District Work have been prepared by the District generally in accordance with the current State of Washington Standard Specifications for Road, Bridge and Municipal Construction, District Standard Specifications as applicable and adopted design standards ("Plans and Specifications"). The District hereby approves the Scope of Work and the Plans and Specifications for the District Work as described in Exhibits A & B.

**Section 3. Bidding and Construction:** The County shall be responsible for Contract procurement and construction of the Project. The County will incorporate the District's Plans and Specifications as a separate bid schedule in the contract to allow, to the greatest extent possible,

identification of cost allocations between the respective work for the Parties. The County shall advertise the Project in the official legal publication for the County and if necessary other publications, consistent with applicable laws and regulations.

The County shall notify the District of the time and date of the bid opening so that the District may attend. At the designated bid opening date and time, the County shall open and read the bids received for the Project. The County shall award the Contract to the lowest, responsive, responsible bidder for the Project, subject to applicable laws and regulations, provided that the accepted bid does not exceed the District engineer's estimate for the District Work by 25% as shown in **Exhibit C**. If the apparent low-bidder's bid or all bids received by the County for the District Work exceed the District engineer's estimate by 25%, the County will consult with the District and get approval before awarding the Contract.

Once the contract is awarded, the County will administer and manage the Project contract. The County will perform all engineering, survey and field inspections and shall make all payments to the Contractor. The County will keep the District advised as to the progress of the Project. The County, as construction agent, shall have final judgment regarding decisions related to the work of the County's Contractor (the "Contractor"), except as otherwise provided in this Agreement.

**Section 4. Authority to Construct:** Subject to the provisions in Section 3 herein, the District hereby authorizes the County to proceed with construction in accordance with **Exhibits A, B and C** for the purpose intended by this Agreement, and as further described in Section 8.

**Section 5. Inspection by District:** The District shall furnish an inspector on the Project to monitor the Contractor's compliance with the Plans and Specifications. Any costs for such inspection will be borne solely by the District. The District's inspector shall advise the County, in writing, of any deficiencies noted. Deficiencies shall be limited to items that the District's inspector believes are out of compliance with the District Work Plans and Specifications and the District's inspector shall provide the plan sheet number or specification that is at issue. All contact between the District's inspector and the Contractor shall be through the County's designated representatives. The District's inspector shall not have authority to direct the work of the Contractor.

**Section 6. Acceptance:** After the Contractor notifies the County in writing that the District Work is substantially complete, the Parties shall perform a mutual inspection of the District Work. If during the inspection the District determines that the District Work is not in compliance with the Plans and Specifications, the District will provide a written deficiency list to the County within five (5) business days after the inspection. The deficiency list shall only contain construction deficiencies that the District believes are out of compliance with the Plans and Specifications and cite to the specific plan sheet number and/or specification at issue. The County will consult with the District regarding the deficiencies identified. Thereafter, the County shall direct the Contractor to promptly correct the non-conforming District Work at no additional cost to the Parties. After the Contractor has corrected the non-conforming District Work, the County will issue notice of Substantial Completion to the Contractor.

After the Contractor notifies the County in writing that the District Work is physically complete, the Parties shall perform a mutual final inspection of the District Work. If the District Work has been

completed in compliance with the Plans and Specifications the District shall provide the County with a Letter of Acceptance of the District Work. However, if during the inspection the District determines that the District Work is not in compliance with the Plans and Specifications the District will provide a written deficiency list to the County within five (5) business days after the inspection. The list shall only contain construction deficiencies that the District believes are out of compliance with its Plans and Specifications. The District shall cite the plan sheet and/or specification that it considers to be at issue. The County will consult with the District regarding the deficiencies identified. Thereafter, the County will direct the Contractor to promptly correct any non-conforming District Work at no additional cost to the Parties. Once the non-conforming District Work has been corrected to the District's satisfaction, the District shall provide the County with a Letter of Acceptance of the District Work. The District's acceptance of the District Work shall not constitute acceptance of any unauthorized or defective work or materials, nor be a waiver of any warranties.

Substantial Completion, Physical Completion and Final Acceptance, as those terms are defined in the 2022 Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, shall be issued by the County.

**Section 7. Payment:** The District, in consideration of the faithful performance of the District Work to be done by the County, agrees to reimburse the County for the actual direct construction cost of all work specified in **Exhibit C** plus Ten Percent (10%) of the final construction cost to cover construction management costs (e.g., project management, construction administration, testing and inspection). Payment shall be made by the District to the County within sixty (60) calendar days of the District's acceptance of the District Work as referenced in Section 6, upon the request of the County, to cover actual direct costs incurred by the County. Costs shall include the District's portion of the Contractor's construction costs for the District Work, applicable sales tax, and the agreed upon County's construction management cost as included in the final construction cost.

**Section 8. Extra Work:** If unforeseen causes require an increase in the District's cost obligation of twenty-five percent (25%) or more from the costs included in **Exhibit C**, this Agreement shall be modified and amended by supplemental agreement covering the increased cost for the District Work as agreed by the Parties. In the event it is determined that any "substantial change" from the description of the work contained in the Agreement is required, the County shall obtain written approval from the District before undertaking such additional or changed work. "Substantial change" is defined as any changes requiring an increase in the District's financial obligation (per **Exhibit C**) greater than twenty-five percent (25%). The County shall provide prior written notice to the District for all changes to the District Work regardless of the financial obligation.

**Section 9. Emergency Repairs:** Prior to County acceptance of the Contractor's work, if there is a need for emergency repair and the Contractor is unable to perform such repair in a timely manner, the District shall have the right to enter upon the City's right-of-way and complete said emergency repair. Emergency repairs are defined as work performed by County or District forces to stabilize, remove immediate hazards or dangers by cutting and capping water mains, and restoring immediate utility services to customers in the area. Upon completion of any emergency

repairs by the County or the District, the County and the District shall cooperatively determine each Party's financial responsibility.

**Section 10. Ownership of Completed Lines:** The County agrees that the waterline and appurtenances being constructed as part of the District Work shall become the property of the District on the date the County receives full payment for the District Work or County grants final acceptance of the District Work, whichever is later. The County shall forward and assign to the District any guarantee or warranty furnished as a normal trade practice in connection with the purchase of any equipment, materials, or items used in the construction of the Project. The County shall submit redline drawings to the District upon completion of the Project for District review and approval. The Contractor shall warrant the workmanship and materials utilized in the Improvements to be free of defects for a period of one (1) year from the date of transfer; provided the District shall retain any rights, claims, or demands the District may have against the Contractor relating to the District Work under applicable statutes of limitation.

**Section 11. Legal Relations:** The County and the District agree to defend, save, keep, and hold harmless the other, its officers, agents, employees, and volunteers from and against any and all damages, costs or expenses in law or equity that may any time arise out of or related to damages to property or personal injury received by reason of, or in the course of, or which may be occasioned by any willful or negligent act or omission of either Party arising out of the activities which are the subject of this Agreement.

The County shall require the Contractor constructing the Project to have the District, its elected and appointed officers, agents and employees included as additional insureds on all liability policies of insurance (except Professional Liability and Workers Compensation policies) to be maintained by Contractor(s) under the terms of any Project contract(s), with the Contractor building the Project required to maintain Commercial General Liability Insurance, Commercial Automobile Insurance and Workers Compensation. The Contractor shall provide the County with either a certified copy of all policies with endorsements attached or a Certificate of Insurance with endorsements attached as are necessary to comply with the contract specifications. The County shall provide the District with copies of all such policies and documents upon receipt of same by the County.

The County shall require the Contractor building the Project to indemnify, defend, and save harmless the District and its elected and appointed officers, agents, or employees from any claim, damage, action, liability of proceeding brought or filed against the District or its officers, agents or employees alleging damage or injury arising out of the Contractor's participation in the Project. The Contractor shall also be required to waive the Contractor's immunity under Washington's Industrial Insurance Act, RCW Title 51, as to the District solely for the purposes of the indemnification.

**Section 12. Resolution of Disputes and Governing Law:** This Agreement shall be governed and construed in accordance with the laws of the State of Washington. If the Parties are unable to settle any dispute, difference or claim arising from the Parties' performance of this Agreement, the exclusive means of resolving that dispute, difference, or claim, shall only be by filing suit exclusively under the venue, rules and jurisdiction of the King County Superior Court

located in Kent, King County, Washington, unless the Parties agree in writing to an alternative dispute resolution process. In any claim or lawsuit for damages arising from the Parties' performance of this Agreement, each Party shall pay all of its own legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit, in addition to any other recovery or award provided by law, provided, however, nothing in this paragraph shall be construed to limit the County's or District's right to indemnification under Section 11 of this Agreement.

**Section 13. Written Notice:** Any notice under this Agreement will be in writing and shall be delivered by mail or hand delivery (copies may be emailed) to the Parties as specified below:

**If to the District:** Highline Water District  
23828 30th Avenue South  
Kent, WA 98032-3867  
Attn: Jeremy DelMar  
Email: jdelmar@highlinewater.org

**If to the County:** King County Parks & Recreation Division  
201 South Jackson Street  
Seattle, WA 98104  
Attn: David Shaw, Capital Project Manager  
Email: david.shaw@kingcounty.gov

Either Party may change the above addresses to which notices are sent by giving notice of such change to the other Party in accordance with the provisions of this Section.

**Section 14. Termination:**

- A. Termination for Convenience. This Agreement may be terminated without cause by mutual agreement of the Parties.
- B. Termination for Non-Appropriation. If expected or actual funding is withdrawn, reduced, or limited in any way prior to the expiration of the Agreement, the County may terminate this Agreement in whole or in part for lack of appropriation and the costs associated with such termination, if any, shall not exceed the appropriation for the biennium budget cycle in which the termination occurs. In addition, funding for this Agreement beyond the current biennium is conditional upon appropriation by the County Council of sufficient funds to support the Work described in this Agreement. Otherwise, the Agreement shall terminate on December 31 of the current biennium.

**Section 15. Assignment:** Any assignment of this Agreement by either Party without the prior written consent of the non-assigning Party shall be void.

**Section 16. Modification:** No waiver, alteration, or modification of any of the provisions for the Agreement shall be binding unless in writing and signed by a duly authorized representative of the County and the District.

**Section 17. Waiver:** Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach, nor shall any such action or failure to act by either Party constitute approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by either Party in writing.

**Section 18. Third-Party Beneficiaries:** Nothing in this Agreement is intended to, nor shall be construed to give any rights or benefits in this Agreement to anyone other than the County and District, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the County and the District and not for the benefit of any other party.

**Section 19. Force Majeure:** The term "force majeure" shall include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, terrorism, fire, accidents, shutdowns for purpose of emergency repairs, industrial, civil or public disturbances, epidemics or pandemics, causing the inability to perform the requirements of this Agreement. If either Party is rendered unable, wholly or in part, by a force majeure event to perform or comply with any obligation or condition of this Agreement, upon giving notice and reasonably full particulars to the other Party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations.

**Section 20. Joint Drafting Effort:** This Agreement shall be considered for all purposes as prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution thereof.

**Section 21. Entire Agreement:** The written provisions and terms of this Agreement together with any attached Exhibits, shall supersede all prior verbal statements of any officer or other representative of either Party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. This Agreement, including all Exhibits, is the entire agreement between the Parties. Should any language in any of the Exhibits to the Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.

**Section 22. Effective Date:** This Agreement shall be effective as to all Parties on the last date signed below ("Effective Date").

**Section 23. Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**Section 24. Authority:** Each of the signatories below represents that they have the authority to execute this Agreement on behalf of the Party for which they sign.

**IN WITNESS WHEREOF, this Agreement is executed by the Parties by their authorized officers indicated below.**



EXECUTED, this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

KING COUNTY

HIGHLINE WATER DISTRICT

\_\_\_\_\_  
Warren Jimenez  
Director, Parks Division

\_\_\_\_\_  
Jeremy S. DelMar, PE  
General Manager

Date Signed \_\_\_\_\_

Date Signed \_\_\_\_\_

**EXHIBIT A**

**SCOPE OF WORK**

**KING COUNTY PROJECT**

The project provides for the improvement of a shared use path, which runs from 8<sup>th</sup> Avenue S/Des Moines Memorial Drive Intersection to S. Normandy Road/Des Moines Memorial Drive in the City of Burien. Work includes construction of approximately 0.5 miles of 10-foot to 12-foot-wide paved trail with gravel shoulders, clearing and grubbing, curb and gutter, stormwater conveyance system, culvert, gravity block wall and structural earth wall, concrete driveway crossings, erosion control, site preparation, grading, traffic control, utility adjustments/relocation, roadway channelization striping, signal equipment relocation, and planting.

**DISTRICT WORK**

The scope of the District Work includes the installation of approximately 1,300 linear feet of 16-inch and smaller diameter ductile iron water main, including fittings, valves, hydrants, services, and other water system appurtenances, as described in the Plans and Specifications prepared by Parametrix, Inc. The District will abandon in place the existing water main to be replaced as part of the District Work.

**EXHIBIT B**

**PLANS AND SPECIFICATIONS**

The Plans and Specifications for the District Work shall be the advertisement-ready documents as prepared by Parametrix, Inc. and issued by the District and incorporated into the Project, including and addenda or amendments thereto.

**EXHIBIT C**

**ENGINEER'S COST ESTIMATE**

PARAMETRIX

Form 05-PD-189/Rev. 07/05

100% Opinion (Estimate) of Probable Cost						
					Project No. 22-1	Date April 11, 2023
Project Name King County Lake to Sount Trail Water Main Relocation						
Location Burien, WA						
Owner Highline Water District						
Estimated By: LKW						
Checked By: LKW						
ITEM NO.	SPEC SECTION	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL COST
Utility Improvements						
B1	1-10	Mobilization (Not to Exceed 10%)	1	LS	\$66,053	\$66,053
B2	1-10	Temporary Erosion and Sediment Control	1	LS	\$5,000	\$5,000
B3	1-10	Temporary Traffic Control	1	LS	\$75,000	\$75,000
B4	1-10	Trench Safety Systems	1,300	LF	\$2	\$2,600
B5	1-10	Construction Surveying	1	LS	\$15,000	\$15,000
B6	1-10	Ductile Iron Water Main, Class 52, 8 In. Diam.	65	LF	\$145	\$9,425
B7	1-10	Ductile Iron Water Main, Class 52, 16 In. Diam.	1,200	LF	\$225	\$270,000
B8	1-10	Additional Ductile Iron Water Main Fittings and Restrained Joints	9,000	LB	\$5	\$45,000
B9	1-10	Gate Valve and Valve Box 8 In.	1	Each	\$3,000	\$3,000
B10	1-10	Gate Valve and Valve Box 8 In.	5	Each	\$4,000	\$20,000
B11	1-10	Butterfly Gate Valve and Valve Box 18 In.	4	Each	\$5,000	\$20,000
B12	1-10	12 In. Diam. Steel Casing (Open Cut)	10	LF	\$250	\$2,500
B13	1-10	Fire Hydrant Assembly	3	Each	\$7,000	\$21,000
B14	1-10	Remove Existing Fire Hydrant and Valve Box	3	Each	\$1,250	\$3,750
B15	1-10	Cut In and/or Connect to Existing Water System	9	Each	\$6,500	\$58,500
B16	1-10	Crushed Surfacing Base Course (CSBC)	1,200	Ton	\$35	\$42,000
B17	1-10	HMA Cl. 1/2 In. PG 58H-22 For Trench Patch	30	Ton	\$225	\$6,750
B18	1-10	Final Sawcut	1	LS	\$1,000	\$1,000
B19	1-10	Roadside Cleanup/Surface Restoration	1	LS	\$10,000	\$10,000
B20	1-10	Resolution of Utility Conflicts	1	FA	\$25,000	\$25,000
B21	1-10	Minor Changes	1	FA	\$25,000	\$25,000
<b>Subtotal</b>						<b>\$726,578</b>
<b>Sales Tax (10.1%)</b>						<b>\$73,384</b>
<b>Total Construction Cost</b>						<b>\$799,962</b>

**Agenda Item No.:** 5.1  
**Agenda Date:** 04/19/23  
**Reviewed By:** AMVP for JS DM

**Subject:** Authorize Interlocal Agreement between King County and Highline Water District relating to Project 22-1 King County Lake to Sound Trail Water Main Relocation.

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL			
<i>Expenditures?</i>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Budgeted?</i>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Amount:</i> \$ <u>1,026,291.00</u>			

**ATTACHMENTS:**

1. Resolution 23-4-19A
2. Attachment #1 - Interlocal Agreement with Exhibits A,B and C

**COMMENTS:**

The District owns and operates certain water facilities located within the right-of-way of the City of Burien (City) along Des Moines Memorial Drive near Normandy Park Road. King County Parks (County) will be constructing a new pedestrian path within the vicinity known as the Lake to Sound Trail (County Work) that conflicts with the District’s water facilities. The City has directed the District to relocate the water facilities in conflict with the proposed trail. The District has identified and budgeted resources for the project (District Work) as 22-1 King County Lake to Sound Trail Relocation in the 2023 Capital Improvement Plan.

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Staff recommends approval of this resolution.