



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 23, 2010

Ordinance 16915

Proposed No. 2010-0374.2

Sponsors Phillips and Lambert

1 AN ORDINANCE authorizing the King County executive
2 to execute an interlocal agreement with the United States
3 Department of Transportation, Federal Highway
4 Administration, Western Federal Lands Highway Division,
5 and the United States Department of Agriculture Forest
6 Service, Mt. Baker-Snoqualmie National Forest, for
7 reconstruction of Middle Fork Snoqualmie River Road; and
8 declaring an emergency.

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. Findings.

11 A. King County currently owns and maintains Middle Fork Snoqualmie River
12 Road, a "forest road" as defined in RCW 76.09.020, located in unincorporated King
13 County.

14 B. The parties propose to reconstruct 9.7 miles of the road.

15 C. The reconstruction of the road will be funded by The United States
16 Department of Transportation, Western Federal Lands Highway Division ("FHWA")
17 through the Washington Forest Highway Program ("WFHP") with a capped construction
18 cost of \$20 million in 2008 dollars.

19 D. Preliminary engineering and construction engineering services performed by
20 FHWA, its consultants or other agency contractual agreements will also be funded by
21 WFHP at a capped amount of \$5 million.

22 E. The road will be reconstructed to a two-lane paved facility with improved
23 alignment and grade.

24 F. The United States Forest Service recently completed the Middle Fork
25 campground. The road, which is part of the federal Forest Highways Program, provides
26 access to the campground.

27 G. The road is within King County's jurisdiction. The road is currently a gravel
28 road that requires substantial maintenance. The reconstruction of the road will reduce
29 King County's maintenance responsibilities, while providing improved access for King
30 County residents to the campground. King County is granting permission for FHWA to
31 carry out the reconstruction project within King County's right-of-way.

32 H. Construction is anticipated to take two years.

33 I. King County is authorized, under chapter 39.34 RCW and Article 11 of the
34 Washington state Constitution, to enter into an interlocal governmental cooperative
35 agreement of this nature. FHWA and USFS are authorized, pursuant to 23 U.S.C. 204, to
36 enter into this agreement.

37 J. This interlocal agreement must be approved before September 1, 2010 or the
38 \$20 million WFHP funding for the project will be reallocated to other non-King County
39 projects.

40 K. In order to ensure that the WFHP will fund this road improvement project, the
41 executive must be authorized to execute the interlocal agreement before September 1,
42 2010.

43 SECTION 2. The King County executive is hereby authorized to execute an
44 interlocal agreement, substantially in the form of Attachment A to this ordinance, with
45 the United States Department of Transportation, Federal Highway Administration,
46 Western Federal Lands Highway Division and the United States Department of
47 Agriculture Forest Service, Mt. Baker-Snoqualmie National Forest, for reconstruction of
48 Middle Fork Snoqualmie River Road. If the parties seek to amend this interlocal
49 agreement as provided by section 7.7, the executive shall obtain council authorization
50 prior to executing any amendment.

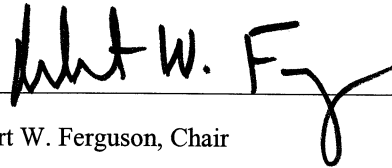
51 SECTION 3. The county council finds as a fact and declares that an emergency
52 exists and that this ordinance is necessary for the immediate preservation of public peace,
53

54 health or safety or for the support of county government and its existing public
55 institutions.
56

Ordinance 16915 was introduced on 7/6/2010 and passed as amended by the Metropolitan King County Council on 8/23/2010, by the following vote:


Yes: 8 - Ms. Drago, Mr. Phillips, Mr. von Reichbauer, Ms. Hague,
Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn
No: 0
Excused: 1 - Mr. Gossett

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Robert W. Ferguson, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments: A. Interlocal Agreement dated August 23, 2010

INTERLOCAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the U.S. Department of Transportation, Federal Highway Administration, Western Federal Lands Highway Division ("FHWA"); U.S. Department of Agriculture Forest Service, Mt. Baker-Snoqualmie National Forest ("FS"); and King County, Washington ("County"); for the purpose of the development, construction, funding, and current/future maintenance for the Middle Fork Snoqualmie River Road Project, WA PFH 29-1(1) ("the Project"). FHWA, FS and the County are collectively referred to as "the Parties."

RECITALS

- A. The County currently owns and maintains a portion of the Middle Fork Snoqualmie River Road ("Road"), a forest road as defined in RCW 76.09.020(15), within unincorporated King County. The remainder of the Road is currently maintained and managed by the FS.
- B. The Mt. Baker-Snoqualmie Forest Plan, as amended by the Northwest Forest Plan (hereafter referred to as the "MBS Forest Plan, as amended"), applies to those portions of the Road that are in the National Forest.
- C. The Project will be consistent with the MBS Forest Plan, as amended for the county portion of the Road.
- D. The Parties propose to reconstruct 9.70 miles of the Road, 9.20 miles is the County's portion of the Road and 0.50 miles is the FS' portion of the Road.
- E. The Road is proposed to be reconstructed to a two lane paved facility with improved alignment and grade.
- F. The FS recently completed the Middle Fork Campground. The Road, which is part of the Federal Forest Highway, provides access to the Campground.
- G. The portion of the Road to be reconstructed is mostly within the County's jurisdiction. The Road is currently a gravel road which requires substantial maintenance. The reconstruction of the road will reduce the County's maintenance responsibilities, while providing improved access for King County residents to the Campground.
- H. The majority of the Road is located within the designated shoreline of the Middle Fork-Snoqualmie River. The Coastal Zone Management Act requires that federal agencies "conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs." 16 U.S.C. Sec. 1456(C)(1).

- I. Construction is anticipated to take two years.
- J. The County is authorized, pursuant to RCW Chapter 39.34 and Article 11 of the Washington State Constitution, to enter into an interlocal governmental cooperative agreement of this nature. FHWA and the FS are authorized, pursuant to 23 U.S.C. 204, to enter into this Agreement.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. PURPOSE

This Agreement sets forth each Party's role and responsibility for the Project.

2. GENERAL RESPONSIBILITIES OF FHWA

- 2.1 FHWA shall be the lead agency for the Project and shall be the lead agency with regard to the NEPA, design, permitting, construction and all other matters pertaining to the accomplishment of the Project. As the lead agency FHWA will be responsible for conducting an environmental review for the proposed roadway improvement. FHWA plans to prepare a NEPA Document to determine whether a build alternative should be selected for this proposed project. The NEPA process will also be used to determine whether the proposed project's parameters are appropriate for any build alternative that may be selected for this project, or whether another alternative to meet the purpose and need of the project is appropriate.
- 2.2 FHWA shall be responsible for funding the reconstruction of the Road up to an amount not to exceed \$20 Million in 2008 dollars through the Washington Forest Highway Program, except for right-of-way drawing preparation, title reports, appraisals, negotiations, etc. associated with the acquisition of Rights of Way which will be funded by and shall be the responsibility of the County.
- 2.3 Preliminary Engineering ("PE") and Construction Engineering services performed by the FHWA, its consultants, or other agency contractual agreements will be further funded by the Washington Forest Highway Program in an amount not to exceed \$5,000,000 for PE. As of July, 2009, \$3,000,000 has been spent on development of this project. If projected PE is forecasted to exceed \$5,000,000 the Washington Forest Highway Tri-Agency will reassess their commitment to delivery of this project. The

efforts of all agencies party to this Agreement shall be the responsibility of the respective agencies and shall include all internal staff time, coordination, and reviews associated with this project. Only those tasks which are specifically requested by FHWA through an inter-agency reimbursable agreement will be eligible for cost reimbursement by the Forest Highway Program.

- 2.4 FHWA proposes, subject to any final decision under the NEPA process, to perform its design and engineering for the Project in accordance with the 2001 AASHTO Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT \leq 400). The AASHTO LRFD Bridge Specifications is proposed to be used for bridge and structure design.
- 2.5 Actual design standards will be issued based on the use and characteristics of the road and input received during the environmental review process. Following the conclusion of the environmental review process described in Section 2.1 above, FHWA will design the project to applicable Federal requirements. These requirements will include any standards identified in the NEPA process. FHWA will obtain applicable Federal and State Permits which are NPDES, Army Corps of Engineers 404, and Washington Department of Ecology 401 through the 404 process for any build alternative selected for this project.
- 2.6 The majority of the project is located within the shoreline of the Middle Fork-Snoqualmie River and therefore the CZMA requires that the reconstruction project be consistent to the maximum extent practicable with King County's Shoreline Master Program and Shoreline and Critical Area regulations. To demonstrate consistency with CZMA, FHWA will concurrently submit a copy of the completed Coastal Zone Management Act consistency determination to King County when it is filed with Washington State Department of Ecology.

3. GENERAL RESPONSIBILITIES OF THE COUNTY

- 3.1 The County shall provide for the acquisition of all property and easements that are necessary for the Project.
- 3.2 The County shall provide all necessary real estate services to purchase properties necessary for the Project.
- 3.3 The County may obtain funding from other discretionary sources for Right-Of-Way purchases and other project cost contributions. The FHWA agrees to provide technical support for discretionary funding proposals to complete this process.

- 3.4 The County shall grant permission to FHWA to construct the road improvements within the County road right-of-way.
- 3.5 After completion of the Project, the County shall be responsible for the ongoing operation and maintenance of the Road, and for the funding of those activities.
- 3.6 So as to ensure consistency with the CZMA, the County shall verify that the design and construction of the Middle Fork Road is consistent with applicable portions of King County's Shoreline Master Program and Shoreline and Critical Area regulations. The County shall also verify that the design and construction of the Middle Fork Road is consistent with the appropriate standards and guidelines from the MBS Forest Plan, as amended for the County's portion of the roadway. Construction shall not commence until such verification has been issued in writing by King County. The County commits to providing such verification, within thirty (30) days of receipt of the final plans. The County's concurrence of the final plans, together with any conditions to make the proposal consistent with applicable local regulations shall constitute the required verification.

4. GENERAL RESPONSIBILITIES OF FS

- 4.1 The Forest Service shall grant permission to FHWA to construct the road improvements within the portion of the project that is a National Forest System road.
- 4.2 FS shall transfer to the County, at no cost to the County, any Right-Of-Way necessary for construction of that portion of the Project within the Mt. Baker-Snoqualmie National Forest.
- 4.3 FS shall provide FHWA with applicable MBS Forest Plan, as amended standards and guidelines for NEPA analysis, design and construction of that portion of the Middle Fork Road that is on National Forest System lands.

5. LIABILITY

Washington State law shall govern the liabilities of the County and Federal law shall govern the respective liabilities of the FS and the FHWA for any loss due to property damage or injury to persons arising out of activities conducted pursuant to this Agreement.

6. DISPUTE RESOLUTION

- 6.1 In the event of a dispute between the parties regarding this Agreement, the parties shall attempt to resolve the matter informally.
- 6.2 If the agencies appointed single point of contacts are unable to resolve the matter informally, the issue will be elevated to the Project Management Branch Chief for FHWA, the _____ for the FS, and the Engineering Services Section Manager for the County Road Service Division.
- 6.3 If the dispute still cannot be resolved, the matter shall be decided by the King County Road Engineer, the FHWA Division Engineer, and the Forest Supervisor. If the Parties are unable to reach mutual agreement, any Party may refer the matter to non-binding mediation.
- 6.4 The King County Road Engineer, the FHWA Division Engineer, and the Forest Supervisor of the FS may also agree in writing to use another dispute resolution process.
- 6.5 This Agreement shall be interpreted in accordance with Federal law.

7. OTHER PROVISIONS

- 7.1 The Parties are negotiating a project agreement that addresses design issues, and the roles and responsibilities of the parties in greater detail. The project agreement shall control the responsibilities and commitments of the Parties in areas that the project agreement addresses. The terms of the project agreement shall be consistent with the terms of this Agreement.
- 7.2 Nothing contained herein is intended to, nor shall be construed to create any rights in any party not a signatory to this Agreement, or to form the basis for any liability on the part of the Parties, or their officials, employees, agents or representatives, to any party not a signatory to this Agreement.
- 7.3 Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.4 If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the parties.
- 7.5 The captions in this Agreement are for convenience only and do not in any

way limit or amplify the provisions of this Agreement.

- 7.6 This Agreement and the project agreement contain the entire agreement of the parties and any representations or understandings, whether oral or written, not expressly incorporated in this agreement or the project agreement are excluded.
- 7.7 This Agreement may be amended only by an instrument in writing, duly executed by the Parties.
- 7.8 This Agreement shall take effect upon signature by all three Parties, and shall remain in effect for five years from the date of the last signature; provided however upon written notification by one of the parties to this Agreement, it may be extended up to three years if needed to complete the Project.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date last written below.

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WESTERN FEDERAL LANDS HIGHWAY DIVISION**

By: _____ Date: _____
Clara Conner
Division Engineer

**U.S. FOREST SERVICE
MT. BAKER-SNOQUALMIE NATIONAL FOREST**

By: _____ Date: _____
Robert Iwamoto
Forest Supervisor

KING COUNTY

By: _____ Date: _____
King County Executive

Approved as to Form

King County Deputy Prosecuting Attorney