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August 23, 2010 Council Meeting

Sponsor: Larry Phillips

pdcb/bar

Proposed No.: 2010-0374

LP MOVED

PASSED: 8-0 Ly Excused

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2010-0374, VERSION**

2 **1**

3 On page 1, beginning on line 8, strike everything through page 3, line 44, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Findings.**

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

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

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

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

40 the United States Department of Transportation, Federal Highway Administration,  
41 Western Federal Lands Highway Division and the United States Department of  
42 Agriculture Forest Service, Mt. Baker-Snoqualmie National Forest, for reconstruction of  
43 Middle Fork Snoqualmie River Road. If the parties seek to amend this interlocal  
44 agreement as provided by section 7.7, the executive shall obtain council authorization  
45 prior to executing any amendment.

46 SECTION 3. The county council finds as a fact and declares that an emergency  
47 exists and that this ordinance is necessary for the immediate preservation of public peace,  
48 health or safety or for the support of county government and its existing public  
49 institutions."

50 Delete Attachment A and replace with Attachment A, Interlocal Agreement dated August  
51 23, 2010.

52 **EFFECT: Changes "statement of fact" section to "findings" and adds a finding**  
53 **concerning the time urgency of adoption. Adds a new section 2, which declares an**  
54 **emergency. Attaches a revised Attachment A, interlocal agreement, incorporating**  
55 **changes recommended as a consequence of the legal review process.**

## 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).

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.

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

Approved as to Form

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King County Deputy Prosecuting Attorney

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Sponsor: Larry Phillips

Proposed No.: 2010-0374

LP MOVED  
PASSED: 8-0 2g Excused

1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2010-0374, VERSION 1**

2 On page1, delete lines 1 through 7 and insert:

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

11 **Effect: Amends title to declare an emergency, in conformance with the striking**  
12 **amendment.**