

INTERLOCAL AGREEMENT BETWEEN CITY OF YAKIMA AND YAKIMA SCHOOL
DISTRICT NO. 7 FOR WASTEWATER INSPECTION AND PREVENTATIVE
MAINTENANCE SERVICES

THIS INTERLOCAL AGREEMENT is made and entered by and between the City of Yakima and Yakima School District No. 7 for the provision of wastewater inspection, preventative maintenance, and emergency response services concerning certain side sewer wastewater lines and facilities of Eisenhower High School.

I. PREAMBLE

A. CITY OF YAKIMA, hereinafter called "City," is a municipal corporation of the State of Washington with City Hall located at 129 North 2nd Street, Yakima, Washington 98901.

B. YAKIMA SCHOOL DISTRICT NO. 7, hereinafter called "District," is duly formed and existing under the laws of the State of Washington as a school district, with administrative offices at 104 North 4th Avenue, Yakima, Washington 98902. District owns, operates and maintains a public high school know as Eisenhower High School, hereinafter called "High School," located at 702 South 40th Avenue, Yakima, Washington 98908.

C. City and District are authorized pursuant to Chapter 39.34 RCW (Interlocal Cooperation Act), RCW 39.33.010 and RCW 39.33.020 to enter into intergovernmental agreements for provision of services that each are authorized to perform, and to cooperatively provide services necessary or appropriate to protect and promote the general health, safety and welfare on such terms as may be mutually agreed.

D. District has constructed and maintains a private 8-inch side sewer pipeline serving the High School and connected to the City's sewer main line. The District's side sewer pipeline and supporting infrastructure lie within and upon High School property, with the connection to the City's sewer main lying within the public right-of-way. District experienced a partial failure of its side sewer pipeline within and upon the High School property caused by blockage of the side sewer line. As a result, sewage escaped the side sewer pipeline and flowed onto High School property. City responded to assist with the cleanup when it was determined that private companies lacked sufficient equipment and means to accomplish the necessary cleanup. Consequently, City and District have deemed it necessary and appropriate, in order to protect the public health and welfare, to enter into an agreement whereby City will provide sewer line inspection

and preventative maintenance services to District's High School in accordance with the terms and conditions set forth below

D. City of Yakima has the ability to provide the inspection, preventative maintenance and emergency cleanup services, as described herein and below, to District.

E. City of Yakima and District each have authority pursuant to Chapter 39.34 RCW to enter into interlocal agreements to cooperatively provide governmental services, including but not limited to the services described herein and below.

II. AGREEMENT

WHEREFORE, pursuant to the authority provided in Chapter 39.34 RCW, and in consideration of the mutual covenants, promises, conditions and benefits herein, the parties agree as follows:

1. Services Provided. City of Yakima will perform the following services for District for the inspection, preventative maintenance and emergency response services (if necessary) for the District's side sewer pipeline and supporting infrastructure situated upon the High School property:

(a) Hydro Cleaning of Side Sewer Line. Upon execution of this Agreement, City will schedule and perform a hydro cleaning of that portion of the District's 8-inch side sewer pipeline that has manhole access upstream and downstream. City will cooperate with District regarding the date such hydro cleaning will occur. Thereafter, City will perform one hydro cleaning per year in accordance with a schedule agreed upon by the parties, and, with the agreement of District, may reduce, increase or adjust the number and/or frequency of such cleanings as pipeline conditions warrant.

(b) Closed Circuit TV (CCTV) Inspection. Upon execution of this Agreement, City will schedule and perform a CCTV inspection of that portion of the District's 8-inch side sewer pipeline that has manhole access upstream and downstream. Thereafter, City will perform a CCTV inspection of such line at least once every five years, which schedule may be altered to adjust to conditions found. City will cooperate with District regarding the date or dates such inspection will occur. The City, upon agreement of the District, may perform additional CCTV inspections as deemed necessary or appropriate.

(c) Emergency Response. In the event of any sewage spill from the District's side sewer pipeline or infrastructure, District will notify all agencies with

jurisdiction in accordance with law, and will notify City of the emergent incident. City will thereupon use reasonable and prudent methods, means and equipment to assist District in the cleanup of the condition.

2. Primary Duty of City – Responsibility of District. The parties understand and agree that the primary duty of the City wastewater utility is to provide wastewater utility services, including but not limited to inspection, preventative maintenance, maintenance and emergency response services, to the City of Yakima as a whole. City of Yakima reserves the right to decline any request by District for services under this Agreement when, in the opinion of the City Manager or City Wastewater Department Head, provision of such services for District conflict with the primary duty of the City wastewater utility to provide services for and on behalf of other properties and projects within the City.

The parties further understand and agree that the side sewer system of District, including the portions thereof to be inspected and maintained by City pursuant to this Agreement, is owned and controlled solely by District, which remains solely responsible for maintenance and repair of such private pipelines and supporting infrastructure and solely responsible for cleanup and remediation of any spillage of pollutants arising out of such private system. This Agreement is entered into by and between the parties in order to allow the City to provide support to District in meeting District's obligations to operate and maintain its private sewer lines and system. Nothing in this Agreement shall be construed to create any relationship between the parties other than independent contractors, and nothing in in this Agreement shall be construed to vest City with any ownership interest or responsibility for operation and repair of District's sewer system and facilities, nor responsibility or assumption of liability by City for any damage or liability resulting from District's ownership and operation of such private facilities.

3. Compensation for Services. District agrees to pay City the then-current established hourly rate of pay for each City of Yakima employee that performs service under this agreement, which service has been authorized by District. For purposes of information, the hourly rates established by City for years 2014 and 2015 are currently as follows:

Specialist I:	\$32.47 per hour
Specialist II:	\$42.79 per hour
Specialist III:	\$48.86 per hour

In the event other City personnel are reasonably required, as determined by City, to perform any service authorized pursuant to this Agreement, City shall advise District of

such additional personnel and shall include the applicable hourly billing rate on an invoice reflecting the work performed and personnel performing the work.

District shall also pay to City that sum equal to the hourly rental rate of all equipment used by City to perform the services under this Agreement. For purposes of this Agreement, the following pieces of equipment currently have the designated "hourly rental rates" set forth below:

Vactor:	\$125.00 per hour
CCTV:	\$125.00 per hour
Pickup truck	\$ 18.00 per hour

In the event other City equipment is reasonably required, as determined by City, to perform any service authorized pursuant to this Agreement, City shall advise District of such additional equipment and shall include the applicable hourly rental rate on an invoice reflecting the work performed and personnel and equipment performing the work.

The hourly rates set forth above for both labor and equipment are subject to change by City in order to reflect changes in compensation rates for City employees performing the services under this Agreement, and changes in hourly cost of operation of City equipment in the performance of such services. City will use reasonable efforts to notify District of changes in labor and equipment compensation rates as such occur.

4. Billing for Services. City of Yakima shall provide District a billing invoice for services performed pursuant to this Agreement in conformity with the normal billing procedures of the City. Billings will be supported by an invoice showing hours worked by each City employee performing work pursuant to this Agreement during the billing period, together with equipment used and number of hours worked. District will promptly pay such bills in conformity with its established payment procedures.

5. Cooperative Scheduling of Services. City and District shall cooperate in the scheduling of the services of City. City reserves the right to schedule its employees at all times in order to preserve the primary duty of its employees to serve projects and properties within the City of Yakima.

6. Cooperative Performance of Duties. City will cooperate with District regarding compilation of data, processing and reporting of work performed as deemed necessary and appropriate to report to agencies with jurisdiction. The parties will jointly provide for the most efficient and cost-effective methods and procedures to enable performance of the work under this Agreement.

7. Administration and Contacts. This Agreement shall be jointly administered by the City of Yakima Building Division and Yakima School District No.7, or their respective designees. The contact information for each party shall be as set forth below, or as otherwise provided in writing to the other party:

City of Yakima

Marc Cawley
Wastewater Superintendent
2220 E. Viola Avenue
Yakima, WA 98901

Phone: (509) 575-6268

Yakima School District No. 7

Chuck Dome
Eisenhower High School
702 South 40th Avenue
Yakima, WA 98908

Phone: (509) 941-8900

8. Acquisition of Property and Assets. The parties do not intend to jointly acquire or manage any property. Costs, expenses and disbursements of each party in the performance of this Agreement shall be administered separately by each party. Acquisition of property by either party shall be in accordance with the laws and procedures applicable to such party.

9. Status of Employees. Each employee of the City performing services pursuant to this Agreement shall be and exclusively remain the employee of the City of Yakima, subject to the direction and control of City of Yakima. Each employee of the District performing services pursuant to this Agreement shall be and exclusively remain the employee of the District, subject to the direction and control of District. District and City shall each remain solely and exclusively responsible for the direction and control of its own employees, and shall be solely and exclusively responsible for the compensation of its own employees.

10. Records and Reports. Reports and documents regarding the performance of services pursuant to this Agreement shall be subject to disclosure pursuant to the *Public Records Act*, Chapter 42.56 RCW, as applicable. City records and reports documenting services rendered and billings based thereon shall be made available to District for inspection and copying, as appropriate, during regular business hours of City, upon request of District.

11. Waiver and Amendments. Waiver of any breach or any term or condition of this Agreement shall not waive any prior or subsequent breach. No term or condition is waived, modified or deleted except by an instrument in writing signed by both parties.

12. Entire Agreement and Modifications. This Agreement and its exhibits set forth the entire agreement of the parties with respect to the subject matter herein. The

parties may supplement the Agreement by addenda or amendments, when agreed upon by both parties in writing. The parties shall attach copies of such addenda and amendments and by reference incorporate them herein.

13. Early Termination of Agreement – Effect of Termination. This Agreement may be terminated by either party upon thirty (30) days advance written notice delivered to the other party. Upon the effective date of termination, City shall be paid all amounts earned for work performed prior to such termination, and shall deliver to District all work product determined to be the property of District. Termination of this Agreement shall not terminate the hold harmless provisions set forth in Section 15 below, which provisions shall remain in full force and effect.

14. Duration and Authority. This Agreement shall become effective upon signature and authorization by both parties with copies filed with the Yakima County Auditor and City Clerk, or otherwise posted as authorized pursuant to RCW 39.34.040. This Agreement shall remain in effect for an initial period of five (5) years unless sooner terminated by either party pursuant to Section 13 above. Thereafter, this Agreement shall be automatically renewed for additional five-year terms unless either party serves a written notice of nonrenewal to the other party at least 30 days prior to the end of the then-current term. Termination of this Agreement shall not terminate the hold harmless provisions set forth in Section 15 below, which provisions shall remain in full force and effect.

15. Hold Harmless and Indemnification. District shall indemnify and hold harmless the City, its elected and appointed officials, employees, agents and insurers, from any and all claims, demands, lawsuits, damages and liability arising out of the performance of this Agreement, except to the extent that such claims, demands, lawsuits, damages or liability arises out of the negligence or unlawful intentional acts of such City personnel. Specifically, and without limitation, District agrees to indemnify and hold harmless the City, its elected and appointed officials, employees, agents and insurers, from any and all claims, demands, lawsuits, penalties, damages and liability arising out of any violation of environmental laws, rules and regulations associated with release of any pollutants from any portion of District's side sewer pipelines, private sewer lines and supporting infrastructure.

City shall indemnify and hold harmless the District, its elected and appointed officials, employees, agents and insurers, from any and all claims, demands, lawsuits, damages and liability arising out of the performance of this Agreement, except to the extent that such claims, demands, lawsuits, damages or liability arises out of the negligence or unlawful intentional acts of such District personnel.

- A. Notification of Claims. Each party to this Agreement shall promptly notify the other of any and all claims, actions, losses or damages that arise or are brought against that party relating to or pertaining to the property and projects described in this Agreement.

B. Waiver of Immunity – Industrial Insurance. Each party agrees that its obligations under this section extend to any claim, demand and/or cause of action brought on behalf of any employees or agents. For this purpose, each party, by mutual negotiations, hereby waives, with respect to the other party only, any immunity that is otherwise available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.

16. Severability. If any term or provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable and effective to the fullest extent permitted by law. Further, the parties shall negotiate in good faith regarding amendments to this Agreement that would effectuate the intent of any provision held invalid or not enforceable.

17. No Third-Party Beneficiary. Nothing in this Agreement is intended to create any rights in any entity not a party to this Agreement nor is any person or entity not named a party herein a third party beneficiary to this Agreement.

18. No Public Official Liability. No provision of this Agreement nor any authority granted by this Agreement is intended to create or result in any personal liability for any public official or agent of a party, nor is any provision of this Agreement to be construed to create any such liability.

19. Assignment. The obligations in this Agreement are not subject to assignment.

20. Dispute Resolution – Governing Law – Venue. The parties shall jointly cooperate to resolve any disputes that arise hereunder. Any dispute shall first be considered by the administrative officials identified in Section 7 above. If such consideration does not resolve the dispute, the matter will be submitted to the chief executive officers of each party. If the matter remains unresolved, either party may seek appropriate relief in Yakima County Superior Court, which court shall be the venue for any action arising under this Agreement. This Agreement and all performance herein shall be construed in accordance with the laws of the State of Washington.

21. Complete Agreement. This Agreement contains the complete formulation of the parties with respect to the subject matter of this Agreement. There are no representations, agreements, or understandings, oral or written, by the parties relating to the subject matter to this Agreement that are not fully expressed in this Agreement. Each party acknowledges and represents to the other party that it is executing this Agreement solely in reliance upon its own judgment and knowledge and that it is not executing this Agreement based upon the representation or covenant of any other party, or anyone acting on such other party's behalf, except as expressly stated herein.

WHEREFORE, this Agreement is executed and effective upon the date signed by the last party to sign below:

CITY OF YAKIMA

YAKIMA SCHOOL DISTRICT NO. 7

Tony O'Rourke, City Manager

Dr. Elaine Beraza, Superintendent

Date: _____

Date: _____

ATTEST:

ATTEST:

Sonya Claar Tee, City Clerk

Clerk of the Board