

INTERLOCAL AGREEMENT

CITY OF WEST RICHLAND
AND
RICHLAND SCHOOL DISTRICT No. 400

IRRIGATION WATER FOR WEST RICHLAND MIDDLE SCHOOL SITE

THIS AGREEMENT, dated this 3RD day of APRIL, 2004, by and between

City of West Richland, Washington
Municipal Corporation
3801 W. Van Giesen
West Richland, Washington 99353

Hereinafter referred to as the "City", and

Richland School District No. 400
Public School District
615 Snow Avenue
Richland, Washington 99352

Hereinafter referred to as the "District".

WHEREAS, the District proposes to construct a new middle school with related grounds and facilities at a forty (40)-acre site at 5200 Paradise Way within the City of West Richland legally described as T. 9N. R. 28 E, Section 6 SW 1/4 SE 1/4 Willamette Meridian, Benton County, Washington (hereinafter referred to as the "Site"); and

WHEREAS, the City desires to encourage the District to locate a new middle school within the City of West Richland to support the development of the City and to benefit its citizens; and

WHEREAS, the District's proposed project is feasible only with the availability of potable municipal water and irrigation water supplies reasonably adequate for the uninterrupted operation and maintenance of a middle school facility and grounds; and

WHEREAS, the City and the District are parties to an existing Intergovernmental Agreement For Water Service For West Richland Middle School Site dated December 12, 2000, and

WHEREAS, pursuant to RCW Chapter 39.33 and RCW Chapter 39.34, the City and District are statutorily authorized to enter into an interlocal agreement for the purpose of the use of property and resources for public purposes; and

NOW, THEREFORE, the City and District agree as follows:

Section 1. General Conditions

1) The existing intergovernmental agreement dealing with water service for then-proposed West Richland Middle School Site between the City and District dated Dec. 12, 2000 shall terminate upon the execution by both the District and the City of this Interlocal Agreement For Irrigation Water and become null and void thereafter.

Section 2. The City shall:

1. Provide potable domestic water and sewer service to the Site from and after the issuance of a building permit for site development or construction of the District's middle school and related facilities in such capacities and quantities as may be reasonably required by the District for its construction, development, operation and maintenance of a middle school facility.
 - a. Connection Charges/Fees and monthly rates for city water and sewer service shall be per West Richland Municipal Code Chapter 13 and as hereafter amended by the City Council.

2. Provide, as set forth in this Agreement, all irrigation water reasonably necessary for irrigation of the Site and its facilities as follows:
 - a. Take all steps necessary to transfer 11.74 acres of Columbia Irrigation District (hereinafter the "CID") irrigation water rights from other City-owned real property located within the CID to the be permanently attached to and used for the benefit of the District's Site. The City shall submit a request for transfer to the CID as soon as possible, but no later than 60 days after execution of this Agreement; and
 - i. City shall have no responsibility or liability concerning future availability of any irrigation water rights transferred to the District.
 - ii. In the event the CID or the Washington State Department of Ecology (hereinafter referred to as "Ecology") changes its policies concerning irrigation water rights or is unable, at any time, to provide the quantity of irrigation water transferred hereunder, the City and District shall negotiate in good faith to enter into a new

agreement for the necessary use of city domestic water for irrigation purposes at the Site; and

- b. Grant, by deed and at no cost to the CID or the District, a 10-foot easement over all necessary city property and issue all necessary street or road cut permits as required by the CID to allow CID access from the CID canal to the Southwest corner of the Site; and
3. Provide domestic water from the City water system for temporary irrigation purposes on the Site until the transferred CID irrigation water source is developed and available for use by the District and at any other time that irrigation water is temporarily not available from the CID.
 - a. The cost of installing any temporary water service for irrigation purposes until connection to the CID irrigation system is complete shall be paid for by the District. The City will not charge a connection fee or assessment for this temporary water service.
 - b. The District shall provide a separate temporary meter to measure water from the City water system used for irrigation on the Site.
 - c. The monthly water rate for the District's temporary irrigation needs shall be \$0.08 per hundred gallons until completion of the project. After issuance of the final occupancy permit, the rate shall be per WRMC or as amended by City Council, provided that the rate for water used for irrigation shall at no time hereafter be more than the best rate charged to any other City customer for domestic, commercial or governmental use of City water for irrigation purposes.

Section 3. The District shall:

1. In consideration of the City's commitment to provide adequate alternate sources of irrigation water from the City water supply, indemnify the City from the transfer or use of any of the 11.74 acres of CID irrigation water for any purpose other than the District's development and use of the Site for its school and related community purposes; and
2. Pay and hold the City harmless from all costs associated with developing said transferred CID irrigation water including design, easements, construction, annual CID assessments, operation and maintenance costs, etc.; and

3. Construct a new middle school with related grounds and facilities at the forty-acre site. District shall complete construction of grass sports fields comparable to other district middle schools.
 - a. Fields will be a priority for use of available site development funds and project contingency funds.
 - b. Funds from this project will not be transferred to other projects before sports field alternates are completed.
4. Cooperate with the City and abutting property owners to deed to City one-half of the width of road and utility rights of way along north, south, east and west boundaries of the forty-acre parcel of the Site.
 - a. The District's one-half shall consist of 30' of road ROW with 10' utility easement outside road ROW except along Paradise Way road ROW shall be 40' with a 15' utility easement outside the ROW.
 - b. Deeding of road right of way and easements to City shall be completed within 90 days of the District's acquisition of title thereto.
5. Cooperate with the City and adjacent property owners in formation of future roadway LID(s) to improve the roadways around the Site.
6. Cooperate with the City in the use of the playfields and grounds, subject to policies of the District, for the benefit of the citizens of West Richland and the Richland School District.

Section 4. Interlocal Cooperation Action Provisions

It is not intended that a separate legal entity shall be established either to conduct the cooperative undertakings. For the purpose of this Agreement, the City Mayor, or his/her designee, shall be responsible for the administration of the City's undertakings and the Superintendent or his/her designee shall be responsible for the administration of the District's undertakings hereunder.

Section 5. Indemnification

Each party shall defend, indemnify and hold the other harmless from any claims, damages, causes of action, or judgments arising from or as a direct result of the negligent or intentional acts of its agents, employees or officers.

Section 6. Applicable Law

This Agreement is made and entered into in the State of Washington and shall be governed by and construed and enforced in accordance with the substantive laws of the State of Washington. Should any dispute arise concerning the enforcement, breach or interpretation of this Agreement, venue shall be placed in Benton County, Washington, and the prevailing parties shall be entitled to its reasonable attorney fees and costs and additional judgments.

Section 7. Entire Agreement

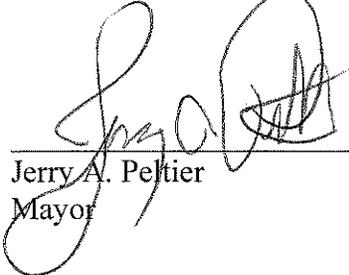
This Agreement is the entire Agreement of the parties and may be changed, modified or amended only upon written agreement bearing the signatures of the authorized representatives of both the City and the District.

This Agreement shall be binding upon all successors, agents, representatives and assignees of the parties.

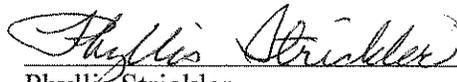
IN WITNESS WHEREOF, the parties have executed this Agreement in West Richland, Washington, the date and the first year written as provided in the Agreement.

CITY OF WEST RICHLAND

RICHLAND SCHOOL DISTRICT NO. 400



Jerry A. Peltier
Mayor



Phyllis Strickler
President
Board of School Directors

ATTEST:



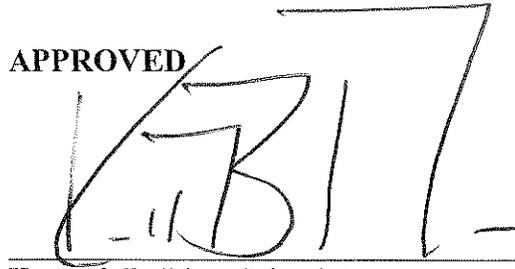
Dawnce Doggett, City Clerk

APPROVED

APPROVED



Terry Tanner, City Attorney



Kenneth B. Rice, School Attorney