

**CITY OF CLARKSTON**  
**AND**  
**PUBLIC UTILITY DISTRICT NO. 1 OF ASOTIN COUNTY**  
**INTERLOCAL AGREEMENT FOR SEWER SYSTEM IMPROVEMENTS**

This INTERLOCAL AGREEMENT FOR SEWER SYSTEM IMPROVEMENTS (this “**Agreement**”) is entered into as of the date of the last signature below (the “**Effective Date**”) by and between the CITY OF CLARKSTON, WASHINGTON, a Washington municipal corporation (the “**City**”), and PUBLIC UTILITY DISTRICT NO. 1 OF ASOTIN COUNTY, a Washington municipal corporation (the “**PUD**”) (each a “**Party**” and collectively the “**Parties**” to this Agreement). The Parties agree as follows:

1. RECITALS.

1.1 WHEREAS, it is in the interests of both Parties to enter into this agreement, and in the interests of the public health, safety, welfare and convenience of the public service area covered by this agreement, and its residents, that this agreement be made and performed; and

1.2 WHEREAS, pursuant to Washington State law, the City and the PUD are each authorized to operate wastewater collection and treatment systems, and to enter into agreements regarding the construction and operation of such facilities; and

1.3 WHEREAS, the City currently owns a wastewater treatment facility and sewer collection system (“City Sewer System”) in the incorporated City of Clarkston; and

1.4 WHEREAS, the PUD currently contracts to operate the City Sewer System and, as such, provides management services to the City; and

1.5 WHEREAS, the City plans on transferring ownership of the City Sewer System to the PUD by separate agreement and the PUD wishes to accept ownership and control of such City Sewer System consistent with that separate agreement; and

1.6 WHEREAS, the PUD is willing to oversee and manage construction of certain improvements (“Improvements”) to the City’s Sewer System as outlined in Section 4 of this Agreement prior to the transfer of the City Sewer System to the PUD; and

1.7 WHEREAS, the Parties wish to provide for City payment of \$1.5 million dollars in funds to the contractor awarded the bid for the sewer main replacement project, as reimbursement for the Improvements by the contractor, and the Parties wish to provide for PUD payment of funds to the City for improvements in excess of the designated funds; and

1.8 NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein and for other good and valuable consideration, IT IS AGREED BY THE CITY AND THE PUD, as follows:

2. PURPOSE AND AUTHORITY.

2.1 This Agreement is entered into under RCW 39.34.080. The City and the PUD agree that it is in the interests of the customers served by the City and the PUD to pursue efficiencies by working together to construct the sewer system Improvements under the terms of this Agreement.

3. DEFINITIONS.

3.1 Definitions. For the purposes of this agreement, the following words and terms shall have the following meanings:

(A) City shall mean the City of Clarkston, Washington, the governing body of which is their City Council.

(B) City Sewer System shall mean the sewage collection, transmission, and treatment facilities owned by the City, together with any real property, additions or betterments thereto.

(C) PUD shall mean the Public Utility District No. 1 of Asotin County, Washington, the governing body of which is its Board of Commissioners.

(D) Owner shall mean the entity with which the Contractor has contracted with to complete the construction of Improvements.

(E) Contractor shall mean the entity who has been contracted with to complete the construction of Improvements.

(F) Improvements shall mean the sewage system projects described in Exhibit A.

4. CONSTRUCTION OF IMPROVEMENTS.

4.1 PUD Administration of Improvements. The PUD shall administer and manage the completion of the Improvements. The PUD will oversee the public bidding and contractor selection process for the Improvements using PUD bid procedures and requirements. The bid will be awarded to the lowest responsible bidder.

4.2 City Approval of PUD Selected Contractor. The City shall give final approval of the PUD selected contractor and will execute all documents necessary to effect the construction of Improvements.

4.3 Authorized Representative. The City grants the PUD express authority, as an authorized representative, to implement construction Improvements as the Owner with respect to all matters requiring the Owner's approval or authorization in connection with completion of Improvements.

4.4 Design and Construction Standards. Design and construction standards for facilities constructed by the PUD under this agreement shall be required to conform to the then prevailing

written specifications, codes, methods, and standards required by the PUD for construction in unincorporated areas to ensure that hookups conform to the PUD Sewer System requirements.

4.5 Construction and Ownership. The Parties anticipate construction of the Improvements will be completed no later than December 31, 2024. Upon completion of construction of Improvements by the contractor and acceptance by the City, the PUD will own the Improvements, in fee simple, on the “Title Transfer Date” set forth in that agreement between the PUD and the City entitled, *Sewer System Transfer Agreement Between City of Clarkston And Public Utility District No. 1 of Asotin County*.

4.6 Cost Allocation. The Parties have allocated all costs for the Improvements as follows: The City agrees to pay \$1.5 million dollars to the bid awarded contractor for construction of the Improvements. Construction costs exceeding \$1.5 million dollars shall be paid for by the PUD, by direct invoice from the City.

## 5. GENERAL.

5.1 Mutual Cooperation Process. Upon mutual agreement between the Parties, or upon the request of either Party, the Parties will resolve issues related to this Agreement under the following process:

The Parties will first attempt to resolve the issue through routine meetings and communications in the ordinary course of business.

If either the PUD General Manager or the City Mayor determines that routine meetings and communications will not resolve the issue, the Parties will then attempt to resolve the issue through formal meetings or negotiations between representatives of the Parties appointed by their respective governing bodies.

If either representative of the respective governing bodies of the Parties determines that formal meetings or negotiations will not resolve the issue, then either Party may demand mediation through a process mutually agreed to in good faith between the Parties within 30 days of the demand, which may include binding or nonbinding decisions or recommendations. The mediator(s) must be individuals skilled in the legal and business aspects of this Agreement. The Parties will share equally the costs of mediation and assume their own costs.

If mediation does not resolve the issue, the Parties may pursue any and all available remedies under applicable law.

### 5.2 Indemnification.

To the extent permitted by law, the PUD agrees to defend, indemnify and hold harmless the City and its elected officials, officers, employees and agents from all claims, demands, suits, penalties, losses, damages, judgments, liabilities, expenses, costs and reasonable attorneys’ fees arising out of or in any way resulting from a breach of the PUD’s duties, obligations, warranties

or representations and acts, errors or omissions in performance under this Agreement. Should a court of competent jurisdiction determine this Agreement is subject to RCW 4.24.115, then in the event of liability for damages caused by the negligence or concurrent negligence of the City, the PUD's obligation to indemnify the City will extend only to the extent of the PUD's negligence. The Parties specifically and expressly understand that this indemnification constitutes the PUD's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification and only with respect to the City. The Parties acknowledge that this waiver has been mutually negotiated.

To the extent permitted by law, the City agrees to defend, indemnify and hold harmless the PUD and its Board of Commissioners, officers, employees and agents from all claims, demands, suits, penalties, losses, damages, judgments, liabilities, expenses, costs and reasonable attorneys' fees arising out of or in any way resulting from a breach of the City's duties, obligations, representations or warranties and acts, errors or omissions in performance under this Agreement. Should a court of competent jurisdiction determine this Agreement is subject to RCW 4.24.115, then in the event of liability for damages caused by the negligence or concurrent negligence of the PUD, the City's obligation to indemnify the PUD will extend only to the extent of the City's negligence. The Parties specifically and expressly understand that this indemnification constitutes the City's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification and only with respect to the PUD. The Parties acknowledge that this waiver has been mutually negotiated.

The provisions of this Section survive any expiration or termination of this Agreement and its Schedules with respect to any event occurring prior to such expiration or termination.

6. Notices and Communications. Any notice or communication to be given by the PUD to the City under this agreement shall be deemed properly given if delivered, or if mailed postage prepaid and addressed to:

If to the City, the notice shall be sent to:

Monika Lawrence, Mayor  
City of Clarkston  
829 5<sup>th</sup> Street  
Clarkston, WA 99403

with a copy to:

Todd Richardson, Attorney  
City of Clarkston  
829 5<sup>th</sup> Street  
Clarkston, WA 99403

If the PUD, the notice shall be sent to:

Tim Simpson, General Manager  
Asotin County PUD  
PO Box 605  
Clarkston, WA 99403

The name and address to which notices and communications shall be directed may be changed at any time, and from time to time, by either the City or the PUD giving notice thereof to the other as herein provided.

7. Modifications to Agreement. Each party acknowledges that no representation, inducement, warranty, promise or agreement, orally or otherwise, has been made by either party, or anyone acting on behalf of any party, which is inconsistent with the terms of this agreement. Any modification of, or amendment to this agreement shall be effective only if it is in writing and signed by the Parties.

8. Duration and Termination. This Agreement is effective and in full force from and including the Effective Date and terminates on December 31, 2025. The Parties may mutually agree in writing to extend this Agreement one or more calendar years.

9. Assignments. No part of this agreement or any rights, duties, or obligations described herein shall be assigned or delegated to another without the express written consent of both parties hereto.

10. Mutual Cooperation. The PUD and City recognize that to realize the full benefits that are contemplated by the understandings and undertakings memorialized in this agreement it will be necessary for both parties to cooperate with each other in good faith, looking to the public interest and purposes to be achieved by the efficient performance of this agreement.

11. Severability. In the event that any portion of this agreement is determined by a final order of a court of competent jurisdiction to be invalid void or unenforceable, such determination shall not affect the validity of the remaining provisions hereof.

12. Governing Law; Venue. This Agreement is governed by and construed according to the laws of the State of Washington. As against the other Party, each Party may file suit to enforce this Agreement only in the Superior Court of Asotin County, Washington.

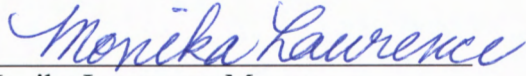
13. No Third-Party Rights. This Agreement is solely for the benefit of the Parties and does not grant any right to any other party or person.

14. Captions. Captions given to the various provisions of this Agreement are for convenience only and are not intended to modify or affect the meaning of any provision.

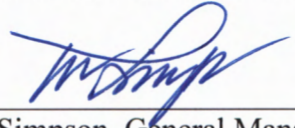
DATED to be effective as of this 12<sup>th</sup> day of December, 2023.

CITY OF CLARKSTON, WASHINGTON

PUBLIC UTILITY DISTRICT NO. 1 OF  
ASOTIN COUNTY, WASHINGTON



Monika Lawrence, Mayor



Tim Simpson, General Manager

**EXHIBIT A**  
**DESCRIPTION OF IMPROVEMENTS**

**City of Clarkston Sewer Collection System Main Replacement Project**

- Schedule A - McCarroll Street Project: Highland Avenue to Chestnut Street
  - Replace approximately 2,650 ft of 6”/8” clay pipe with 8” HDPE/PVC.
  - Replace and repair manholes as needed.
  
- Schedule B - University Street Project: Libby Street to Chestnut Street
  - Replace approximately 1,510 ft of existing 6” clay pipe with 8” HDPE/PVC.
  - Replace and repair manholes as needed.
  
- Schedule C - Alley between 6<sup>th</sup> and 5<sup>th</sup> Streets Project: Chestnut Street to Elm Street
  - Rehabilitate approximately 1,300 ft of 8” clay pipe using cured-in-place pipe (CIPP) technology.
  - Replace and repair manholes as needed.