

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF PACIFIC AND THE CITY  
OF ALGONA FOR PROVIDING UTILITY SERVICES**

WHEREAS, the City of Pacific (hereafter "Pacific") is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, the City of Algona (hereafter "Algona") is a municipal corporation organized under the laws of the State of Washington; and

WHEREAS, Chapter 39.34 RCW ("The Inter-local Cooperation Act") permits municipal corporations to contract with one another to perform any act that each is independently authorized to perform; and

WHEREAS, Chapter 35.92 RCW permits municipal corporations to operate utilities; and

WHEREAS, Algona does not provide water or sanitary sewer utility services to a certain area of Algona bordering Pacific and prior to adopting a policy of not providing utility services outside Pacific City limits, Pacific has agreed to provide water and sanitary sewer utilities service under limited and selective circumstances to property owners in a service area in Algona as defined herein; and

**WHEREAS**, Pacific is updating its Water Plan and will include the Algona area served by Pacific in its plan revision as Pacific will be the sole provider in the area as described in attachment "A" of this agreement; and

NOW, THEREFORE, in consideration for the mutual covenants and promises set forth in this Agreement, and in the exercise of authority granted by the Inter-local Cooperation Act, Chapter 39.34 RCW, Pacific and Algona do hereby agree to the following:

1. Purpose. The purpose of this Agreement is to provide municipal water and sanitary sewer services to properties located in Algona within the service area described in Attachment A.
2. Administration. The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

The City of Pacific's representative shall be the Director of Public Works for Pacific or the office or person otherwise assigned the duties of Director of Public Works.

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The City of Algona's representative shall be the Director of Public Works for Algona or the office or person otherwise assigned the duties of Director of Public Works.

No joint acquisition of real or personal property is contemplated hereunder.

3. Service Area. Green View Sub-division, a portion of NW ¼ of Section 36, Township 21 N, Range 4 E, W. M. as described in attachment A (the "Algona Service Area").
4. Duties of Pacific. Pacific shall perform the following duties:

To obtain whatever regulatory and other approval is required by law to provide water and sanitary sewer service within the Algona Service Area.

To be the sole provider of all water and sanitary sewer utility services to properties located in the Service Area, to include the maintenance of any piping, valves, meters and any other component of the utility. As the sole provider of all water services to the Service Area, the City of Pacific will bear the cost of water service to fire hydrants located in the Service Area.

To amend its Water Plan and service areas to include the Algona Service Area with the City of Pacific water and sewer service areas. Such amendments shall be implemented on or before service if provided within the Algona Service Area.

A property owner within the service area described in Article 1 of this Agreement (hereafter "Applicant") may request to be provided potable water and sanitary sewer services. Such request shall be made in writing addressed to the City of Pacific at the address provided in this Agreement. A contract for potable water and sanitary service between the Applicant and the Pacific shall be executed before service is provided. The City of Pacific shall provide such utility service to the applicant subject to Pacific's Utility Policies and Procedures. The Applicant shall be considered a customer of Pacific and subject to the customary billing rates, utility rules and regulations of the City of Pacific.

All repair work done under this Agreement shall be done in a thorough and professional manner. In the repair pipes and conduits and the digging of ditches therefore, Pacific shall leave ditches in such a way as to interfere as little as possible with public travel and shall take all due and necessary precautions to ensure that damage or injury shall not occur or arise by reason of such work; and that where any ditches or trenches are left open at

night, Pacific shall place at all crossings suitable lights in such a position to guard against danger.

Pacific shall obtain permits from the City for any work performed in the public rights of way of the City of Algona, to the extent such permits are required pursuant to the laws, rules and regulations of the City of Algona. In the event of an emergency situation in which PSE's Facilities within the Franchise Area are in such a condition so as to immediately endanger the property, life, health or safety of any individual, PSE may take action to correct the dangerous condition without first obtaining any required permit, provided that PSE applies for any necessary permit(s) from the City for such work as soon as reasonably practicable thereafter.

Construction and Installation of utility system facilities within the public rights of way by the City of Pacific or its agents will comply with all applicable City of Algona public works standards for work within the public rights of way and other applicable, laws, rules and regulations.

5. Duties of Algona. Algona shall perform the following duties:

The City of Algona gives its consent to the City of Pacific to provide water and sanitary sewer service within the Algona Service Area.

Refer citizens within the Algona Service Area to the City of Pacific for utility service;

In consideration for the provisioning of water and sanitary sewer service to properties within the Algona Service Area, Algona agrees to waive the ordinary fees required for issuance of any Right of Way Permit for repair work necessary to the utility service lines;

Algona shall not charge or assess Pacific any utility fees or taxes for which it does not have express authority.

6. Indemnification.

(a) Algona Ordinances, Rules and Regulations. In executing this Agreement, Pacific does not assume liability or responsibility for or in any way release Algona from any liability or responsibility which arises in whole or in part from the existence or effect of Algona ordinances, rules, or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any Algona ordinance, rule, or regulation is at issue, Algona shall defend the same at its sole expense and

if judgment is entered or damages are awarded against Algona, Pacific, or both, Algona shall satisfy the same, including all chargeable costs and attorneys' fees.

(b) Algona Indemnification of Pacific. Algona shall indemnify, defend, and hold harmless Pacific, its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, including costs and attorneys fees in defense thereof, for injuries, sickness or death of persons (including employees of Algona), or damage to property, or the violation of any person's civil rights, which is caused by or arises out of Algona's acts, errors or omissions with respect to the subject matter of this agreement; provided, however,

(i) Algona's obligation to indemnify, defend and hold harmless shall not extend to injuries, sickness, death, damage or civil rights violations caused by or resulting from the sole actions or negligence of Pacific, its officers, agents or employees; and

(ii) Algona's obligation to indemnify, defend, and hold harmless for injuries, sickness, death, damage or civil rights violations caused by or resulting from the concurrent actions or negligence of Algona and Pacific shall apply only to the extent that Algona's actions or negligence caused or contributed thereto.

(c) Pacific Indemnification of Algona. Pacific shall indemnify, defend, and hold harmless Algona, its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, including costs and attorneys' fees in defense thereof, for injuries, sickness or death or persons (including employees of Pacific), or damage to property, or the violation of any person's civil rights, which is caused by or arises out of Pacific' acts, errors or omissions with respect to the subject matter of this agreement; provided, however

(i) Pacific's obligation to indemnify, defend and hold harmless shall not extend to injuries, sickness, death, damage or civil rights violations caused by or resulting from the sole actions or negligence of Algona, its officers, agent or employees; and

(ii) Pacific's obligation to indemnify, defend and hold harmless for injuries, sickness, death, damage or civil rights violations caused by or resulting from the concurrent actions or negligence of Pacific and Algona

shall apply only to the extent that Pacific' actions or negligence caused or contributed thereto.

7. Independent Contractor. Each party to this Agreement is an independent contractor with respect to the subject matter herein. Nothing in this Agreement shall make any employee of Algona a Pacific' employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Pacific' employees by virtue of their employment. Nothing in this Agreement shall make any employee of Pacific a Algona employee for any purpose, including but not limited to for withholding taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Algona employees by virtue of their employment. At all times pertinent hereto, employees of Pacific are acting as Pacific employees and employees of Algona are acting as Algona employees.

8. Notice. Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

To Pacific:                      Public Works Director  
    City of Pacific  
    100 3<sup>rd</sup> Ave SE  
    Pacific, WA 98047

To Algona:                        Public Works Director  
    City of Algona  
    402 Warde St  
    Algona, WA 98001

9. Partial Invalidity. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect. Notwithstanding the foregoing, this Agreement shall be subject to re-negotiation as provided in this Agreement.

10. Assignability. The rights, duties, and obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

11. Entire Agreement. This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

12. Mediation/Arbitration Clause. If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussions, the parties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under the American Arbitration Association's Rules before resorting to arbitration. The mediator may be selected by agreement of the parties or through the American Arbitration Association. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through whatever legal remedies the parties may have available to them.

13. Captions. The section and paragraph captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

14. Duration and Termination. The terms of this Agreement shall be for a period of twenty (20) years; provided that, the parties do not intend that the expiration or termination of this agreement shall affect in any way whatever contractual, legal, or equitable rights the property owners within the Service Area may have to continue to receive and have available to them water and sanitary sewer service from the City of Pacific. The Agreement shall take effect on January 1, 2008 or as soon thereafter as all of the following events have occurred:


- (a) Approval of the Agreement by the official action of the governing bodies of each of the parties hereto.
- (b) Execution of the Agreement by the duly authorized representative of each of the parties hereto.
- (c) Filing a copy of this Agreement with King County Department of Records and Elections.


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DATED this 29<sup>th</sup> day of August, 2008.

CITY OF PACIFIC

CITY OF ALGONA

By   
Richard Hildreth, Mayor  
By direction of the City Council  
Taken \_\_\_\_\_

  
DAVID E. HILL, MAYOR  
By direction of the City Council  
Taken 8-5-08

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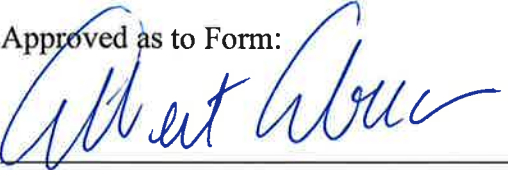
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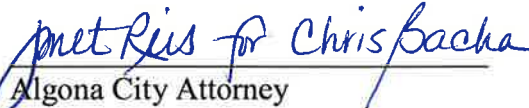
Attest:

Attest:

  
City Clerk

  
City Clerk

Approved as to Form:  
  
Pacific City Attorney

Approved as to Form:  
  
Algona City Attorney