

*APPENDIX T*

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*LORAYNE J AND TRI-CITIES  
ESTATES AGREEMENTS*

EMERGENCY WATER INTERTIE AGREEMENT

This Agreement is entered into this <sup>29</sup>29 day of January, 2003 by and between the CITY OF RICHLAND and the KENNEWICK IRRIGATION DISTRICT.

RECITALS

WHEREAS, the Kennewick Irrigation District is desirous of continuing emergency backup capability to Local Improvement District #501 ("LID") in the event that its pumping capability is lost; and

WHEREAS, the Kennewick Irrigation District and Badger Mountain Irrigation District previously established an emergency intertie facility to provide LID #501 with emergency backup; and

WHEREAS, the City of Richland, in 1998, assumed control of that portion of the water system previously operated by Badger Mountain Irrigation District, including that portion containing the previously established emergency intertie facility; and

WHEREAS, the City of Richland is willing to allow the Kennewick Irrigation District to maintain the existing intertie with the City of Richland's water distribution system to insure the availability of water to the LID in the event of a power failure or other emergency;

NOW, THEREFORE, it is hereby agreed between the City of Richland, a municipal corporation, hereafter referred to as the "City", and the Kennewick Irrigation District, hereafter referred to as the "KID"; a district created pursuant to the laws of the State of Washington, as follows:

1. In consideration of the Agreements by the KID herein contained, the City shall allow the KID to maintain in effect the existing emergency intertie connection to the City's water line at a point lying 131 lineal feet south of the intersection of Canterbury Road and Lorayne "J" Boulevard in the Breckenridge Plat, Benton County, Washington. The connection point will be as specified and located in the plans and specifications for the KID's Water System Plan. The KID also agrees, with regard to the emergency water tie-in that:

a. No water facility assessment charge shall be required for the existing emergency intertie connection to the City water line; provided, however, that nothing herein shall be deemed a waiver by the City of future facility assessment charges in the event of other water interties, additional connection points or amended utilization of the water intertie forming the subject matter of this Agreement.

b. Upon notice to the City by the KID, which notice may be oral, that an emergency condition exists, requiring utilization of the intertie, the City shall as soon thereafter as possible, activate the intertie. At the conclusion of the emergency situation which required utilization of the intertie; the KID shall notify the City that the emergency situation has passed and, thereafter, the City shall deactivate the intertie; provided, however, that nothing contained herein shall be deemed to negate the reserved rights of the City pursuant to paragraph 2, below. Only City personnel shall perform activation, adjustment and deactivation of the intertie. The actual cost of this activation, adjustment and deactivation service as determined by the City shall be paid by the KID upon receipt of billing by the City.

c. For any water drawn from City lines through the emergency intertie, the KID shall pay to the City the residential rate for service with a 50% surcharge and other applicable charges as determined by the City. All charges are due and owing upon receipt unless special arrangements have been made for a particular billing.

d. City water drawn by the KID through the intertie shall be drawn only on an emergency basis, that is, in case of a major fire, loss of power to the KID pumping facilities, or other emergency situations.

e. The KID agrees to defend, indemnify and hold the City harmless for any loss, damage, injury or other casualty of any kind or nature, arising directly or indirectly out of this intertie Agreement. Indemnity shall include entitlement to recovery of defense costs, which shall include all fees (of attorneys and others), costs and expenses incurred in good faith. In addition, the City shall be entitled to recover compensation for all of its in-house expenses (including materials and labor) consumed in its defense.

2. Nothing contained in this Agreement shall be deemed a guarantee by the City that any specific quantity or pressure of water will be available to the KID at any given time, nor shall anything herein contained render the City liable for any act or omission relating to a supply of water, or a lack thereof, of the KID. The City reserves the right to limit, restrict or apportion the water being drawn through the intertie, as the City deems appropriate without liability to the City.

3. The KID owns the intertie equipment and agrees to maintain the equipment and provide the City with annual meter test results. No changes or modifications to the intertie shall be made without express written approval of the City.

4. It is specifically recognized and agreed between the parties that each and every section contained herein is basic to this Agreement. In the event that either party fails to perform as herein agreed, the other party shall be free from further obligation pursuant to this Agreement, and may take such steps as that party deems appropriate to return to their original status or position, that party shall give to the other party a minimum of thirty (30) days written notice of their intention to act.

5. Any dispute arising out of this Agreement which involves only the parties, shall be decided by an arbitrator mutually acceptable to the parties and pursuant to the rules of the American Arbitration Association (the parties will not use the American Arbitration Association services). If the parties cannot agree to an arbitrator, the presiding Judge of Benton County Superior Court shall select an arbitrator from lists submitted by the parties.

6. Should either party bring an action or demand arbitration to enforce the terms of this Agreement, then the prevailing party as decided by the court or arbitrator shall be entitled to its reasonable attorney fees and costs incurred in the action or arbitration.


7. Annexation to the City is not a required condition of this Agreement. Terms of annexation shall be agreeable to both the City and the residents of KID Local Improvement District #501. At such time as annexation takes place, any provision herein contained which is inconsistent with the agreed terms of annexation shall be void and of no further force nor effect.

8. The term of this agreement is effective until either party terminates this agreement. Either party, with 30 days written notice, may terminate this agreement

without cause and without further obligation to the other. The City may, upon cancellation of the agreement, disconnect the intertie.

WITNESS our signature this 31 day of January, 2003.


CITY OF RICHLAND

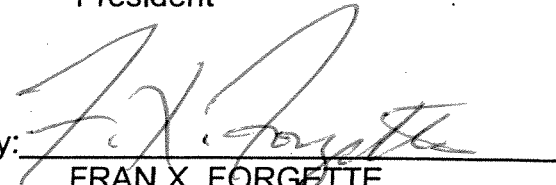
By:   
JOHN C. DARRINGTON  
City Manager

KENNEWICK IRRIGATION DISTRICT


By:   
JOHN PRINGLE  
President

APPROVED AS TO FORM:

By:   
THOMAS O. LAMPSON  
City Attorney

By:   
FRAN X. FORGETTE  
KID Attorney

ATTEST:

By:   
KENNETH R. BAYS  
City Clerk

By:   
CHUCK GARNER  
Secretary Manager

EMERGENCY WATER INTERTIE AGREEMENT

WHEREAS, the Tri-City Estates Water District has received a grant from the State of Washington to improve the District's water system; and

WHEREAS, the State of Washington, in considering the District's grant application, is desirous of minimizing duplication of systems and of assuring that any improved water system will meet the standards of the City of Richland; and

WHEREAS, the District is desirous of obtaining emergency backup capability in the event that its pumping capability is lost; and

WHEREAS, the State of Washington will not fund a power backup system for the District's pumping facilities due to the proximity of a gravity activated City water line; and

WHEREAS, the City is willing to allow the District to tie into the City line to insure the availability of water to the District in the event of a power failure or other emergency;

NOW, THEREFORE, it is hereby agreed between the City of Richland, a municipal corporation, hereafter referred to as the "City", and Tri-City Estates Water District, a district created pursuant to the laws of the State of Washington, hereafter referred to as the "District", as follows:

1. In consideration of the agreements by the District herein contained, the City shall allow the District to maintain in effect the existing emergency intertie connection to the City's water line at a point lying along the easterly boundary of the Tri-City Estates, Benton County, Washington, along what is commonly known as Harris Avenue Southeast, at a point located and specified in the plans and specifications for the District's water distribution system. The District also agrees, with regard to the emergency water tie-in that:

- a. No water facility assessment charge shall be required for the emergency intertie connection to the City water line; provided, however, that nothing herein shall be deemed a waiver by the City of future facility assessment charges in the event of other water interties or amended utilization of the water intertie forming the subject matter of this agreement.
- b. Upon notice to the City by the District, which notice may be oral, that an emergent condition exists, requiring utilization of the intertie, the City shall as soon thereafter as possible, activate the intertie. At the conclusion of the emergent situation which required utilization of the intertie, the District shall notify the City that the emergent situation has passed and, thereafter, the City shall deactivate the intertie; provided, however, that nothing contained herein shall be deemed to negate the reserved rights of the City pursuant to paragraph 2, below. Activation, adjustment and deactivation of the intertie shall be performed only by personnel of the City. The actual cost of this activation, adjustment and deactivation service shall be paid by the Tri-City Estates Water District upon receipt of billing by the City.
- c. For any water drawn from City lines through the emergency intertie, the District shall pay to the City the residential rate for service to the Badger Mountain water rate zone and other applicable charges for service outside the City limits, as provided in Chapter 18.24 of the Richland Municipal Code as the same presently exists or may hereafter be amended.



All charges are due and owing upon receipt, unless special arrangements have been made for a particular billing.

- d. City water drawn by the District through the intertie shall be drawn only on an emergency basis, that is, in case of a major fire, loss of power to the District pumping facilities, or other emergent situations.
- e. The District agrees to indemnify and hold the City harmless for any loss, damage, injury or other casualty of any kind or nature, arising directly or indirectly out of this intertie agreement.

2. Nothing contained in this agreement shall be deemed a guarantee by the City that any specific quantity or pressure of water will be available to the District at any given time, nor shall anything herein contained render the City liable for any act or omission relating to a supply of water, or a lack thereof, of the District. In the event that the City is faced with an emergent situation, including a general water shortage, and therefore, required a maximum supply of water at a time when the District faces an emergent situation requiring the utilization of the intertie, the City reserves the right to limit, restrict or apportion the water being drawn through the intertie as the City deems appropriate, without liability to the City.

3. The District agrees to adhere to the plans and specifications for the improvement of its water distribution system as well as the implementation schedule, both of which have been approved by the City and are attached hereto and incorporated herein. No changes shall be made in the plans and specifications nor the implementation schedule without the express written approval of the City, which changes do not modify or change the system in any material or substantial degree; provided further that

the City shall be notified of any such changes.

4. All new development within the District shall connect to the District's water distribution system. No private domestic wells shall be allowed.

5. The District recognizes the desirability of developing a sewer collection system within the Tri-City Estates area and the benefits of tying into adjacent City sewer lines. Therefore, the District agrees to exert its best efforts to bring about the establishment of a sewer district, or a similar vehicle, for developing a sewer collection system which shall tie into the existing City system, shall in all respects meet City standards, be compatible with the City system, and be subject to all applicable City rates and charges as the same may exist when such a sewer collection system is constructed.

6. At such time as the City has increased the capacity of its water and sewer plants, the District agrees to exert its best efforts among the residents residing within the District to bring about the annexation of the property within the District to the City of Richland.

7. Annexation to the City is not a required condition of this agreement. Terms of annexation shall be agreeable to both the City and the residents of the District. At such time as annexation takes place, any provision herein contained which is inconsistent with the agreed terms of annexation shall be void and of no further force nor effect.

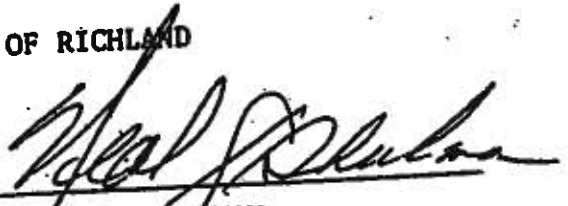
8. It is specifically recognized and agreed between the parties that each and every section contained herein is basic to this agreement. In the event that either party fails to perform as herein agreed, the other party shall be free from further obligation pursuant to this agreement, and may take such steps as that party deems appropriate to return to

their original status or position, that party shall give to the other party a minimum of 90 days written notice of their intention to act.

WITNESS our signature this 22<sup>nd</sup> day of October 1979

CITY OF RICHLAND

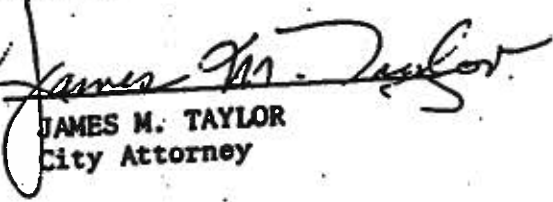
By:



NEAL J. SHULMAN  
City Manager

APPROVED AS TO FORM:

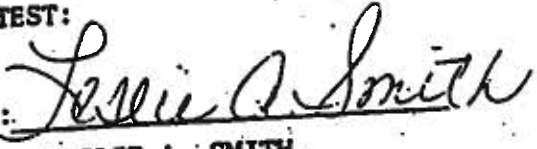
By:



JAMES M. TAYLOR  
City Attorney

ATTEST:

By:



LESLIE A. SMITH  
City Clerk

TRI-CITY ESTATES WATER DISTRICT

By:

